100th Congress
2d Session

COMMITTEE PRINT

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A LEGISLATIVE HISTORY OF THE WATER QUALITY ACT OF 1987 (PUBLIC LAW 100-4) INCLUDING PUBLIC LAW 97-440; PUBLIC LAW 97-117; PUBLIC LAW 96-483; AND PUBLIC LAW 96-148

TOGETHER WITH

A SECTION-BY-SECTION INDEX

PREPARED BY THE

ENVIRONMENT AND NATURAL RESOURCES POLICY DIVISION

OF THE

CONGRESSIONAL RESEARCH SERVICE

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LETTER OF SUBMITTAL

August 17, 1988

Honorable Quentin N. Burdick, Chairman
Honorable Robert T. Stafford, Ranking Minority Member
Committee on Environment and Public Works
United States Senate, Washington, D. C.

Dear Mr. Chairman and Senator Stafford:

In response to your joint request, we have prepared a legislative history of the Water Quality Act of 1987 (Public Law 100-4) and four additional amendments to the Clean Water Act enacted since 1977 (Public Law 97-440, Public Law 97-117, Public Law 96-483, and Public Law 96-148). This legislative history supplements materials in separate volumes that comprise the legislative history of the Federal Water Pollution Control Act Amendments of 1972 and the Clean Water Act Amendments of 1977, previously issued as committee prints by your Committee.

This legislative history contains the major bills, reports, hearing testimony by Administration witnesses, and congressional debates that went into enactment of these amendments, including material from the 98th and 99th Congresses preceding enactment of Public Law 100-4. A section-by-section index is included which references discussions in these materials to provisions of the Act, as is a bibliography that identifies all congressional documents associated with enacting and amending this law.

The history should be of considerable interest and aid to legislators, persons in Federal, State, and local government, as well as industry and the general public, who are concerned with implementing the Clean Water Act and understanding the congressional intent in its passage.

The document was compiled by Claudia Copeland, Specialist in the Environment and Natural Resources Policy Division.

We hope that this document will serve your Committee's needs for a comprehensive history of the Clean Water Act.

Sincerely,

Joseph E. Ross, Director

INTRODUCTION

These volumes contain the legislative history material on five laws that amended the Clean Water Act: Public Laws 96-148, 96-483, 97-117, 97-440, and 100-4. As such, these volumes supplement materials in four separate volumes that comprise the legislative history of the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500) and the Clean Water Act Amendments of 1977 (Public Law 95-217). The four previous volumes were issued as committee prints by the Senate Committee on Environment and Public Works in 1973 and 1978, respectively.

The materials in these volumes are presented in reverse chronological order. That is, the most recent actions from 1987 (the 100th Congress) are first, while materials from 1979 are last. Similarly, items within individual chapters are in reverse chronological order. The Appendix contains tables comparing sections in the two major public laws included in this legislative history, the Water Quality Act of 1987 and the Municipal Construction Grant Amendments of 1981. The Appendix also contains a bibliography of congressional committee hearings, reports, prints, and debates related to Clean Water Act amendments and a section-by-section index of this legislative history.

SUMMARY

In 1979 Congress enacted Public Law 96-148. This 1979 amendment to the Clean Water Act provided a one-year extension (from June 30, 1979, to June 30, 1980) of the moratorium on industrial cost recovery that Congress had enacted as section 75 of the Clean Water Act of 1977. The amendment originated as Senate legislation (S. 901), reported by the Environment and Public Works Committee June 5, 1979 (Senate Report No. 96-200), and passed by the Senate June 14, 1979. In the House, the Public Works and Transportation Committee reported a companion bill, H.R. 4023, on June 25 (House Report No. 96-305). On June 26 the House debated and passed H.R. 4023, then vacated passage of that bill and passed S. 901, amended, in lieu. The Senate concurred in the House amendments to S. 901, with an amendment on November 30, and the House then concurred in the Senate amendment to S. 901 on December 3, 1979. President Carter signed the measure into law December 16, 1979. The materials in **Chapter VIII** relate to this amendment. Congress addressed the industrial cost recovery issue twice more, in Public Law 96-483 (1980) and Public Law 97-117 (1981).

The 1980 amendments to the Act, Public Law 96-483, extended certain authorizations which were due to expire September 30, 1980. The amendments contained a number of other, generally minor provisions. The Senate Environment and Public Works Committee reported S. 2725 on May 15, 1980 (Senate Report No. 96-744). The Senate debated and passed the bill, with amendments, June 25, 1980. On October 1, the House considered and passed S. 2725, with amendments, and on that same date the Senate concurred in the House amendments to the bill. President Carter approved S. 2725 on October 21, 1980. The House Public Works and Transportation Committee reported a separate bill, H.R. 6667, on May 15, 1980 (House Report No. 96-983), but the full House took no action on this bill. **Chapter VII** contains the reports, bills, and debates related to the 1980 amendments.

Chapter VI contains materials on the Municipal Construction Grant Amendments of 1981 (Public Law 97-117). The 1981 amendments reauthorized the Act's Title II construction grants assistance program through fiscal year 1985 and made modifications intended to focus the program on water quality priorities and reduce Federal involvement because of budgetary constraints. Senate and House committees held extensive hearings in connection with Administration and other proposals. The House Public Works and Transportation Committee reported H.R. 4503 on October 9, 1981 (House Report No. 97-270), and the House passed the bill on October 27. The Senate Environment and Public Works Committee reported a companion bill, S. 1716, on October 7 (Senate Report No. 97-204). The Senate passed the bill on October 27 and passed H.R. 4503, amended, in lieu of S. 1716 on October 29. Following a conference, the House and Senate agreed to the conference report (House Report 97-408) on December 16. President Reagan signed the measure into law December 29, 1981. The 1981 amendments included provisions relating to matters in separate legislation (H.R. 2957, limitation on the use of publicly owned treatment works to handle flow from industrial users) reported by the House Public Works and Transportation Committee and passed by the House on May 28, 1981.

For the next five years -- spanning the 97th to the 100th Congresses -- the Senate and House considered proposals and measures leading to passage of the Water Quality Act of 1987. While beginning these deliberations, Congress in 1982 did enact one law modifying the Act. **Chapter V** contains materials on Public Law 97-440, amendments which modified section 301 of the Act to allow modifications of certain effluent limitations relating to biochemical oxygen demand (BOD) and pH. The amendments authorized the EPA Administrator to modify the requirements for best practicable and best conventional treatment technology at two pulp mills in the State of California.

Public Law 97-440 originated as House legislation (H.R. 7159), which was reported by the Public Works and Transportation Committee September 23, 1982 (House Report No. 97-868). The House passed H.R. 7159 by voice vote on September 29. In the Senate, the Environment and Public Works Committee reported an amended version of the bill December 16, 1982 (Senate Report No. 97-686), which the Senate passed with an amendment on December 19. The House agreed to the Senate-passed version on December 20, and President Reagan signed the bill into law January 8, 1983.

Following enactment of the Municipal Construction Grant Amendments, Congress turned attention to the regulatory and other provisions of the Act in the Second Session of the 97th Congress (1982). Senate and House committees held nine days of hearings. Issues in several legislative proposals were addressed, including legislation introduced at the Administration's request (S. 2652/H.R. 6670). Both committees compiled extensive records in these hearings, which served as the basis for subsequent actions in the 98th Congress. Chapter IV includes excerpts from testimony by Administration witnesses before the Senate committee in 1982.

Further consideration occurred in the 98th Congress (1983-1984). Although no legislation was enacted, the bills considered, reported by committees, and passed (in the case of the House), were the substantial basis of legislative activity in the 99th and 100th Congresses. **Chapter IV** contains relevant legislative material from the 98th Congress.

In the Senate, the Environment and Public Works Committee held four days of hearings in 1983, considering several legislative proposals and taking testimony from Administration and other witnesses. In 1983 the committee approved and reported two measures. One of the reported bills (S. 431, Senate Report No. 98-233) dealt with regulatory aspects of the law and included amendments to all titles of the Act except for Title II, which had been amended by the Municipal Construction Grant Amendments of 1981 (Public Law 97-117). The second (S. 2006, Senate Report No. 98-282) proposed a new program for reduction of nonpoint sources of pollution. The 98th Congress adjourned without considering the two related proposals. Chapter IV includes the bills and reports of the Senate committee on S. 431 and S. 2006.

In the House, the Public Works and Transportation Committee also held extensive hearings in 1983 -- a total of 15 days -- before reporting H.R. 3282 in June 1984. The reported bill consisted of amendments to all five titles of the existing law, including a provision authorizing grants to States for Water Pollution Control Revolving Funds. The House amended and passed H.R. 3282 June 26, 1984. Chapter IV includes excerpts from testimony by Administration witnesses before the House committee in 1983, the text of H.R. 3282 as reported, the committee report, and House debate on the bill.

Building on congressional actions from the 98th Congress (House passage of H.R. 3282 and Senate committee action on two bills, S. 431 and S. 2006), the Senate and House passed separate versions of comprehensive Clean Water Act reauthorization legislation in the First Session of the 99th Congress (S. 1128 and H.R. 8, respectively). These bills addressed regulatory provisions in existing law, established new programs in areas not previously treated in the law (such as nonpoint source pollution), and authorized Federal wastewater treatment assistance through fiscal year 1994. Conferees were appointed, and a number of conference committee sessions were held before conferees reached agreement on a bill, S. 1128, in October 1986. The Senate and House unanimously passed S. 1128. However, the President disapproved the bill with a veto on November 6, after the 99th Congress had adjourned. In his veto message, President Reagan said the disapproval centered on unacceptable levels of budgetary commitments in the bill.

Chapter III contains the legislative material from the 99th Congress, including the bills and reports on H.R. 8 and S. 1128, House and Senate debates on these bills, the conference report on S. 1128 (House Report No. 99-1004), congressional debates on passage of the conference report, and the text of President Reagan's 1986 veto message on S. 1128.

With no opportunity to attempt to override the President's November 1986 veto, the 100th Congress moved quickly on Clean Water Act legislation early in 1987. Legislation identical to the vetoed bill was introduced on the first day of the 100th Congress as H.R. 1/S. 1 and was passed directly without further consideration by House and Senate committees. **Chapter II** contains the legislative history material from the 100th Congress. The House debated and passed H.R. 1 without amendment January 8, 1987, by a vote of 406-8, and the Senate approved H.R. 1 without amendment January 21, 1987, by a 93-6 vote. Both houses also approved H. Con. Res. 24, making a correction to one provision of the bill as passed. President Reagan vetoed H.R. 1 on January 30, 1987, again objecting to the bill's authorization levels. On February 3 the

House voted to override the veto by a 401-26 vote. The Senate voted to override the veto on February 4, by a 86-14 vote, and the bill was enacted as Public Law 100-4.

Chapter I contains the result of these amendments: the text of the Clean Water Act, as amended.

Claudia Copeland
Specialist in Environmental Policy
Congressional Research Service

CHAPTER I

100th Congress
2d Session
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THE CLEAN WATER ACT
AS AMENDED BY
THE WATER QUALITY ACT OF 1987
PUBLIC LAW 100-4

MARCH 1988

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NOTE

Amendments made by the 1987 amendments, Public Law 100-4, are shown as follows: Existing law to be omitted is enclosed in bold brackets; new language is printed in italic; existing law in which there is no change is shown in roman.

FEDERAL WATER POLLUTION CONTROL ACT, AS AMENDED

(33 U.S.C. 466 et seq.)

AN ACT To provide for water pollution control activities in the Public Health Service of the Federal Security Agency and in the Federal Works Agency, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—RESEARCH AND RELATED PROGRAMS

DECLARATION OF GOALS AND POLICY

SEC. 101. (a) The objective of this Act is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. In order to achieve this objective it is hereby declared that, consistent with the provisions of this Act—

(1) it is the national goal that the discharge of pollutants into the navigable waters be eliminated by 1985;

(2) it is the national goal that wherever attainable, an interim goal of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water be achieved by July 1, 1983;

(3) it is the national policy that the discharge of toxic pollutants in toxic amounts be prohibited;

(4) it is the national policy that Federal financial assistance be provided to construct publicly owned waste treatment works;

(5) it is the national policy that areawide waste treatment management planning processes be developed and implemented to assure adequate control of sources of pollutants in each State; **[**and**]**

(6) it is the national policy that a major research and demonstration effort be made to develop technology necessary to eliminate the discharge of pollutants into the navigable waters, waters of the contiguous zone, and the oceans**[**.**]***; and*

(7) it is the national policy that programs for the control of nonpoint sources of pollution be developed and implemented in an expeditious manner so as to enable the goals of this Act to be met through the control of both point and nonpoint sources of pollution.

(b) It is the policy of the Congress to recognize, preserve, and protect the primary responsibilities and rights of States to prevent, reduce, and eliminate pollution, to plan the development and use (including restoration, preservation, and enhancement) of land and water resources, and to consult with the Administration in the exercise of his authority under this Act. It is the policy of Congress that the State manage the construction grant program under this Act and implement the permit programs under sections 402 and 404 of this Act. It is further the policy of the Congress to support and aid research relating to the prevention, reduction, and elimination of pollution, and to provide Federal technical services and financial aid to State and interstate agencies and municipalities in connection with the prevention, reduction, and elimination of pollution.

(c) It is further the policy of Congress that the President, acting through the Secretary of State and such national and international organizations as he determines appropriate, shall take such action as may be necessary to insure to the fullest extent possible all foreign countries shall take meaningful action for the prevention, reduction, and elimination of pollution in their waters and in international waters and for the achievement of goals regarding the elimination of discharge of pollutants and the improvement of water quality to at least the same extent as the United States does under its laws.

(d) Except as otherwise expressly provided in this Act, the Administrator of the Environmental Protection Agency (hereinafter in this Act called "Administrator") shall administer this Act.

(e) Public participation in the development, revision, and enforcement of any regulation, standard, effluent limitation, plan, or program established by the Administrator or any State under this Act shall be provided for, encouraged, and assisted by the Administrator and the States. The Administrator, in cooperation with the States, shall develop and publish regulations specifying minimum guidelines for public participation in such processes.

(f) It is the national policy that to the maximum extent possible the procedures utilized for implementing this Act shall encourage the drastic minimization of paperwork and interagency decision procedures, and the best use of available manpower and funds, so as to prevent needless duplication and unnecessary delays at all levels of government.

(g) It is the policy of Congress that the authority of each State to allocate quantities of water within its jurisdiction shall not be superseded, abrogated or otherwise impaired by this Act. It is the further policy of Congress that nothing in this Act shall be construed to supersede or abrogate rights to quantities of water which have been established by any State. Federal agencies shall cooperate with State and local agencies to develop comprehensive solutions to prevent, reduce, and eliminate pollution in concert with programs for managing water resources.

COMPREHENSIVE PROGRAMS FOR WATER POLLUTION CONTROL

SEC. 102. (a) The Administrator shall, after careful investigation, and in cooperation with other Federal agencies, State water pollution control agencies, interstate agencies, and the municipalities and industries involved, prepare or develop comprehensive programs for preventing, reducing, or eliminating the pollution of the navigable waters and ground waters and improving the sanitary condition of surface and underground water. In the development of such comprehensive programs due regard shall be given to the improvements which are necessary to conserve such waters for the protection and propagation of fish and aquatic life and wildlife, recreational purposes, and the withdrawal of such waters for public water supply, agricultural, industrial, and other purposes. For the purpose of this section, the Administrator is authorized to make joint investigations with any such agencies of the condition of any waters in any State or States, and of the discharges of any sewage, industrial wastes, or substance which may adversely affect such waters.

(b)(1) In the survey of planning of any reservoir by the Corps of Engineers, Bureau of Reclamation, or other Federal agency, consideration shall be given to inclusion of storage for regulation of streamflow, except that any such storage and water releases shall not be provided as a substitute for adequate treatment or other methods of controlling waste at the source.

(2) The need for and the value of storage for regulation of streamflow (other than for water quality) including but not limited to navigation, salt water intrusion, recreation, esthetics, and fish and wildlife, shall be determined by the Corps of Engineers, Bureau of Reclamation, or other Federal agencies.

(3) The need for, the value of, and the impact of, storage for water quality control shall be determined by the Administrator, and his views on these matters shall be set forth in any report or presentation to Congress proposing authorization or construction of any reservoir including such storage.

(4) The value of such storage shall be taken into account in determining the economic value of the entire project of which it is a part, and costs shall be allocated to the purpose of regulation of streamflow in a manner which will insure that all project purposes, share equitably in the benefits of multiple-purpose construction.

(5) Costs of regulation of streamflow features incorporated in any Federal reservoir or other impoundment under the provisions of this Act shall be determined and the beneficiaries identified and if the benefits are widespread or national in scope, the cost of such features shall be nonreimbursable.

(6) No license granted by the Federal Power Commission for a hydroelectric power project shall include storage for regulation of streamflow for the purpose of water quality control unless the Administrator shall recommend its inclusion and such reservoir storage capacity shall not exceed such proportion of the total storage required for the water quality control plan as the drainage area of such reservoir bears to the drainage area of the river basin or basins involved in such water quality control plan.

(c)(1) The Administrator shall, at the request of the Governor of a State, or a majority of the Governors when more than one State is involved, make a grant to pay not to exceed 50 per centum of the administrative expenses of a planning agency for a period not to exceed three years, which period shall begin after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, if such agency provides for adequate representation of appropriate State, interstate, local or (when appropriate) international interests in the basin or portion thereof involved and is capable of developing an effective, comprehensive water quality control plan for a basin or portion thereof.

(2) Each planning agency receiving a grant under this subsection shall develop a comprehensive pollution control plan for the basin or portion thereof which—

(A) is consistent with any applicable water quality standards, effluent and other limitations, and thermal discharge regulations established pursuant to current law within the basin;

(B) recommends such treatment works as will provide the most effective and economical means of collection, storage, treatment, and elimination of pollutants and recommends means to encourage both municipal and industrial use of such works;

(C) recommends maintenance and improvement of water quality within the basin or portion thereof and recommends methods of adequately financing those facilities as may be necessary to implement the plan; and

(D) as appropriate, is developed in cooperation with, and is consistent with any comprehensive plan prepared by the Water Resources Council, any areawide waste management plans developed pursuant to section 208 of this Act, and any State plan developed pursuant to section 303(e) of this Act.

(3) For the purposes of this subsection the term "basin" includes but is not limited to, rivers and their tributaries, streams, coastal waters, sounds, estuaries, bays, lakes, and portions thereof, as well as the lands drained thereby.

(d) The Administrator, after consultation with the States, and River Basin Commissions established under the Water Resources Planning Act, shall submit a report to Congress on or before July 1, 1978, which analyzes the relationship between programs under this Act, and the programs by which States and Federal agencies allocate quantities of water. Such report shall include recommendations concerning the policy in section 101(g) of the Act to improve coordination of efforts to reduce and eliminate pollution in concert with programs of managing water resources.

INTERSTATE COOPERATION AND UNIFORM LAWS

SEC. 103. (a) The Administrator shall encourage cooperative activities by the States for the prevention, reduction, and elimination of pollution, encourage the enactment of improved and, so far as practicable, uniform State laws relating to the prevention, reduction, and elimination of pollution; and encourage compacts between States for the prevention and control of pollution.

(b) The consent of the Congress is hereby given to two or more States to negotiate and enter into agreements or compacts, not in conflict with any law or treaty of the United States, for (1) cooperative effort and mutual assistance for the prevention and control of pollution and the enforcement of their respective laws relating thereto, and (2) the establishment of such agencies, joint or otherwise, as they may deem desirable for making effective such agreements and compacts. No such agreement or compact shall be binding or obligatory upon any State a party thereto unless and until it has been approved by the Congress.

RESEARCH, INVESTIGATIONS, TRAINING, AND INFORMATION

SEC. 104. (a) The Administrator shall establish national programs for the prevention, reduction, and elimination of pollution and as part of such programs shall—

(1) in cooperation with other Federal, State, and local agencies, conduct and promote the coordination and acceleration of, research, investigations, experiments, training, demonstrations, surveys, and studies relating to the causes, effects, extent, prevention, reduction, and elimination of pollution;

(2) encourage, cooperate with, and render technical services to pollution control agencies, and other appropriate public or private agencies, institutions, and organizations, and individuals, including the general public, in the conduct of activities referred to in pargraph (1) of this subsection;

(3) conduct, in cooperation with State water pollution control agencies and other interested agencies, organizations and persons, public investigations concerning the pollution of any navigable waters, and report on the results of such investigations;

(4) establish advisory committees composed of recognized experts in various aspects of pollution and representatives of the public to assist in the examination and evaluation of research progress and proposals and to avoid duplication of research;

(5) in cooperation with the States, and their political subdivisions, and other Federal agencies establish, equip, and maintain a water quality surveillance system for the purpose of monitoring the quality of the navigable waters and ground waters and the contiguous zone and the oceans and the Administrator shall, to the extent practicable, conduct such surveillance by utilizing the resources of the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, the Geological Survey, and the Coast Guard, and shall report on such quality in the report required under subsection (a) of section 516; and

(6) initiate and to promote the coordination and acceleration of research designed to develop the most effective practicable tools and techniques for measuring the social and economic costs and benefits of activities which are subject to regulation under this Act; and shall transmit a report on the results of such research to the Congress not later than January 1, 1974.

(b) In carrying out the provisions of subsection (a) of this section the Administrator is authorized to—

(1) collect and make available, through publications and other appropriate means, the results of and other information, including appropriate recommendations by him in connection therewith, pertaining to such research and other activities referred to in paragraph (1) of subsection (a);

(2) cooperate with other Federal departments and agencies, State water pollution control agencies, interstate agencies,

other public and private agencies, institutions, organizations, industries involved, and individuals, in the preparation and conduct of such research and other activities referred to in paragraph (1) of subsection (a);

(3) make grants to State water pollution control agencies, interstate agencies, other public or nonprofit private agencies, institutions, organizations, and individuals, for purposes stated in paragraph (1) of subsection (a) of this section;

(4) contract with public or private agencies, institutions, organizations, and individuals, without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5), referred to in paragraph (1) of subsection (a);

(5) establish and maintain research fellowships at public or nonprofit private educational institutions or research organizations;

(6) collect and disseminate, in cooperation with other Federal departments and agencies, and with other public or private agencies, institutions, and organizations having related responsibilities, basic data on chemical, physical, and biological effects of varying water quality and other information pertaining to pollution and the prevention, reduction, and elimination thereof; and

(7) develop effective and practical processes, methods, and prototype devices for the prevention, reduction, and elimination of pollution.

(c) In carrying out the provisions of subsection (a) of this section the Administrator shall conduct research on, and survey the results of other scientific studies on, the harmful effects on the health or welfare of persons caused by pollutants. In order to avoid duplication of effort, the Administrator shall, to the extent practicable, conduct such research in cooperation with and through the facilities of the Secretary of Health, Education, and Welfare.

(d) In carrying out the provisions of this section the Administrator shall develop and demonstrate under varied conditions (including conducting such basic and applied research, studies, and experiments as may be necessary):

(1) Practicable means of treating municipal sewage, and other waterborne wastes to implement the requirements of section 201 of this act;

(2) Improved methods and procedures to identify and measure the effects of pollutants, including those pollutants created by new technological developments; and

(3) Methods and procedures for evaluating the effects on water quality of augmented streamflows to control pollution not susceptible to other means of prevention, reduction, or elimination.

(e) The Administrator shall establish, equip, and maintain field laboratory and research facilities, including, but not limited to, one to be located in the northeastern area of the United States, one in the Middle Atlantic area, one in the southeastern area, one in the midwestern area, one in the southwestern area, one in the Pacific Northwest, and one in the State of Alaska, for the conduct of research, investigations, experiments, field demonstrations and studies, and training relating to the prevention, reduction and elimination of pollution. Insofar as practicable, each such facility shall be located near institutions of higher learning in which graduate training in such research might be carried out. In conjunction with the development of criteria under section 403 of this Act, the Administrator shall construct the facilities authorized for the National Marine Water Quality Laboratory established under this subsection.

(f) The Administrator shall conduct research and technical development work, and make studies, with respect to the quality of the waters of the Great Lakes, including an analysis of the present and projected future water quality of the Great Lakes under varying conditions of waste treatment and disposal, an evaluation of the water quality needs of those to be served by such waters, an evaluation of municipal, industrial, and vessel waste treatment and disposal practices with respect to such waters, and a study of alternate means of solving pollution problems (including additional waste treatment measures) with respect to such waters.

(g)(1) For the purpose of providing an adequate supply of trained personnel to operate and maintain existing and future treatment works and related activities, and for the purpose of enhancing substantially the proficiency of those engaged in such activities, the Administrator shall finance pilot programs, in cooperation with State and interstate agencies, municipalities, educational institutions, and other organizations and individuals, of manpower development and training and retraining of persons in, on entering into, the field of operation and maintenance of treatment works and related activities. Such program and any funds expended for such a program shall supplement, not supplant, other manpower and training programs and funds available for the purposes of this paragraph. The Administrator is authorized, under such terms and conditions as he deems appropriate, to enter into agreements with one or more States, acting jointly or severally, or with other public or private agencies or institutions for the development and implementation of such a program.

(2) The Administrator is authorized to enter into agreements with public and private agencies and institutions, and individuals to develop and maintain an effective system for forecasting the supply of, and demand for, various professional and other occupational categories needed for the prevention, reduction, and elmination of pollution in each region, State, or area of the United States and, from time to time, publish the results of such forecasts.

(3) In furtherance of the purposes of this Act, the Administrator is authorized to—

(A) make grants to public or private agencies and institutions and to individuals for training projects, and provide for the conduct of training by contract with public or private agencies and institutions and with individuals without regard to sections 3648 and 3709 of the Revised Statutes;

(B) establish and maintain research fellowships in the Environmental Protection Agency with such stipends and allowances, including traveling and subsistence expenses, as he may deem necessary to procure the assistance of the most promising research fellows; and

(C) provide, in addition to the program established under paragraph (1) of this subsection, training in technical matters relating to the causes, prevention, reduction, and elimination of pollution for personnel of public agencies and other persons with suitable qualifications.

(4) The Administrator shall submit, through the President, a report to the Congress not later than December 31, 1973, summarizing the actions taken under this subsection and the effectiveness of such actions, and setting forth the number of persons trained, the occupational categories for which training was provided, the effectiveness of other Federal, State, and local training programs in the field, together with estimates of future needs, recommendations on improving training programs, and such other information and recommendations, including legislative recommendations, as he deems appropriate.

(h) The Administrator is authorized to enter into contracts with, or make grants to, public or private agencies and organizations and individuals for (A) the purpose of developing and demonstrating new or improved methods for the prevention, removal, reduction, and elimination of pollution in lakes, including the undesirable effects of nutrients and vegetation, and (B) the construction of publicly owned research facilities for such purpose.

(i) The Administrator, in cooperation with the Secretary of the department in which the Coast Guard is operating, shall—

(1) engage in such research, studies, experiments, and demonstrations as he deems appropriate, relative to the removal of oil from any waters and to the prevention, control, and elimination of oil and hazardous substances pollution;

(2) publish from time to time the results of such activities; and

(3) from time to time, develop and publish in the Federal Register specifications and other technical information on the various chemical compounds used in the control of oil and hazardous substances spills.

In carrying out this subsection, the Administrator may enter into contracts with, or make grants to, public or private agencies and organizations and individuals.

(j) The Secretary of the department in which the Coast Guard is operating shall engage in such research, studies, experiments, and demonstrations as he deems appropriate relative to equipment which is to be installed on board a vessel and is designed to receive, retain, treat, or discharge human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes with particular emphasis on equipment to be installed on small recreational vessels. The Secretary of the department in which the Coast Guard is operating shall report to Congress the results of such research, studies, experiments, and demonstrations prior to the effective date of any regulations established under section 312 of this Act. In carrying out this subsection the Secretary of the department in which the Coast Guard is operating may enter into contracts with, or make grants to, public or private organizations and individuals.

(k) In carrying out the preventions of this section relating to the conduct by the Administrator of demonstration projects and the development of field laboratories and research facilities, the Administrator may require land and interests therein by purchase, with appropriated or donated funds by donation, or by exchange for acquired or public lands under his jurisdiction which he classifies as suitable for disposition. The values of the properties so exchanged either shall be approximately equal, of if they are not approximately equal, the values shall be equalized by the payment of cash to the grantor or to the Administrator as the circumstances require.

(l)(1) The Administrator shall, after consultation with appropriate local, State, and Federal agencies, public and private organizations, and interested individuals, as soon as practicable but not later than January 1, 1973, develop and issue to the States for the purpose of carrying out this Act the latest scientific knowledge available in indicating the kind and extent of effects on health and welfare which may be expected from the presence of pesticides in the water in varying quantities. He shall revise and add to such information whenever necessary to reflect developing scientific knowledge.

(2) The President shall, in consultation with appropriate local, State, and Federal agencies, public and private organizations, and interested individuals, conduct studies and investigations of methods to control the release of pesticides into the environmental which study shall include examination of the persistency of pesticides in the water environment and alternatives thereto. The President shall submit reports, from time to time, on such investigations to Congress together with his recommendations for any necessary legislation.

(m)(1) The Administrator shall, in an effort to prevent degradation of the environment from the disposal of waste oil, conduct a study of (A) the generation of used engine, machine, cooling, and similar waste oil, including quantities generated, the nature and quality of such oil, present collecting methods and disposal practices, and alternative uses of such oil; (B) the long-term, chronic biological effects of the disposal of such waste oil; and (C) the potential market for such oils, including the economic and legal factors relating to the sale of products made from such oils, the level of subsidy, if any, needed to encourage the purchase by public and private nonprofit agencies of products from such oil, and the practicability of Federal procurement, on a priority basis, of products made from such oil. In conducting such study, the Administrator shall consult with affected industries and other persons.

(2) The Administrator shall report the preliminary results of such study to Congress within six months after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, and shall submit a final report to Congress within 18 months after such date of enactment.

(n)(1) The Administrator shall, in cooperation with the Secretary of the Army, the Secretary of Agriculture, the Water Resources Council, and with other appropriate Federal, State, and interstate, or local public bodies and private organizations, institutions, and individuals, conduct and promote, encourage contributions to, continuing comprehensive studies of the effects of pollution, including sedimentation, in the estuaries and estuarine zones of the United States on fish and wildlife, on sport and commercial fishing, on recreation, on water supply and water power, and on other beneficial purposes. Such studies shall also consider the effect of demographic trends, the exploitation of mineral resources and fossil fuels, land and industrial development, navigation, flood and erosion control, and other uses of estuaries and estuarine zones upon the pollution of the waters therein.

(2) In conducting such studies, the Administrator shall assemble, coordinate, and organize all existing pertinent information on the Nation's estuaries and estuarine zones; carry out a program of investigations and surveys to supplement existing information in representative estuaries and estuarine zones; and identify the problems and areas where further research and study are required.

(3) The Administrator shall submit to Congress, from time to time, reports of the studies authorized by this subsection but at least one such report during any six-year period. Copies of each such report shall be made available to all interested parties, public and private.

(4) For the purpose of this subsection, the term "estuarine zones" means an environmental system consisting of an estuary and those transitional areas which are consistently influenced or affected by water from an estuary such as, but not limited to, salt marshes, coastal and intertidal areas, bays, harbors, lagoons, inshore waters, and channels, and the term "estuary" means all or part of the mouth of a river or stream or other body of water having unimpaired natural connection with open sea and within which the sea water is measurably diluted with fresh water derived from land drainage.

(o)(1) The Administrator shall conduct research and investigations on devices, systems, incentives, pricing policy, and other methods of reducing the total flow of sewage, including, but not limited to, unnecessary water consumption in order to reduce the requirements for, and the costs of, sewage and waste treatment services. Such research and investigations shall be directed to develop devices, systems, policies, and methods capable of achieving the maximum reduction of unnecessary water consumption.

(2) The Administrator shall report the preliminary results of such studies and investigations to the Congress within one year after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, and annually thereafter in the report required under subsection (a) of section 516. Such report shall include recommendations for any legislation that may be required to provide for the adoption and use of devices, systems, policies, or other methods of reducing water consumption and reducing the total flow of sewage. Such report shall include an estimate of the benefits to be derived from adoption and use of such devices, systems, policies, or other methods and also shall reflect estimates of any increase in private, public, or other cost that would be occasioned thereby.

(p) In carrying out the provisions of subsection (a) of this section the Administrator shall, in cooperation with the Secretary of Agriculture, other Federal agencies, and the States, carry out a comprehensive study and research program to determine new and improved methods and the better application of existing methods of preventing, reducing, and eliminating pollution from agriculture, including the legal, economic, and other implications of the use of such methods.

(q)(1) The Administrator shall conduct a comprehensive program of research and investigation and pilot project implementation into new and improved methods of preventing, reducing, storing, collecting, treating, or otherwise eliminating pollution from sewage in rural and other areas where collection of sewage in conventional, communitywide sewage collection systems is impractical, uneconomical, or otherwise infeasible, or where soil conditions or other factors preclude the use of septic tank and drainage field systems.

(2) The Administrator shall conduct a comprehensive program of research and investigation and pilot project implementation into new and improved methods for the collection and treatment of sewage and other liquid wastes combined with the treatment and disposal of solid wastes.

(3) The Administrator shall establish, either within the Environmental Protection Agency, or through contract with an appropriate public or private non-profit organization, a national clearinghouse which shall (A) receive reports and information resulting from research, demonstrations, and other projects funded under this Act related to paragraph (1) of this subsection and to subsection (e)(2) of section 105; (B) coordinate and disseminate such reports and information for use by Federal and State agencies, municipalities, institutions, and persons in developing new and improved methods pursuant to this subsection; and (C) provide for the collection and dissemination of reports and information relevant to this subsection from other Federal and State agencies, institutions, universities, and persons.

(4) SMALL FLOWS CLEARINGHOUSE.—Notwithstanding section 205(d) of this Act, from amounts that are set aside for a fiscal year under section 205(i) of this Act and are not obligated by the end of the 24-month period of availability for such amounts under section 205(d), the Administrator shall make available $1,000,000 or such unobligated amount, whichever is less, to support a national clearinghouse within the Environmental Protection Agency to collect and disseminate information on small flows of sewage and innovative or alternative wastewater treatment processes and techniques, consistent with paragraph (3). This paragraph shall apply with respect to amounts set aside under section 205(i) for which the 24-month period of availability referred to in the preceding sentence ends on or after September 30, 1986.

(r) The Administrator is authorized to make grants to colleges and universities to conduct basic research into the structure and function of fresh water aquatic ecosystems, and to improve understanding of the ecological characteristics necessary to the maintenance of the chemical, physical, and biological integrity of fresh water aquatic ecosystems.

(s) The Administrator is authorized to make grants to one or more institutions of higher education (regionally located and to be designated as "River Study Centers") for the purpose of conducting and reporting on interdisciplinary studies on the nature of river systems, including hydrology, biology, ecology, economics, the relationship between river uses and land uses, and the effects of development within river basins on river systems and on the value of water resources and water related activities. No such grant in any fiscal year shall exceed $1,000,000.

(t) The Administrator shall, in cooperation with State and Federal agencies and public and private organizations, conduct continuing comprehensive studies of the effects and methods of control of thermal discharges. In evaluating alternative methods of control the studies shall consider (1) such data as are available on the latest available technology, economic feasibility including cost-effectiveness analysis, and (2) the total impact on the environment, considering not only water quality but also air quality, land use, and effective utilization and conservation of fresh water and other natural resources. Such studies shall consider methods of minimizing adverse effects and maximizing beneficial effects of thermal discharges. The results of these studies shall be reported by the Administrator as soon as practicable, but not later than 270 days after enactment of this subsection, and shall be made available to the public and the States, and considered as they become available by the Administrator in carrying out section 316 of this Act and by the States in proposing thermal water quality standards.

(u) There is authorized to be appropriated (1) not to exceed $100,000,000 per fiscal year for the fiscal year ending June 30, 1973, the fiscal year ending June 30, 1974, and the fiscal year ending June 30, 1975, [and] not to exceed $14,039,000 for the fiscal year ending September 30, 1980, [and] not to exceed $20,697,000 for the fiscal year ending September 30, 1981, [and] not to exceed $22,770,000 for the fiscal year ending September 30, 1982 *such sums as may be necessary for fiscal years 1983 through 1985, and not to exceed $22,770,000 per fiscal year for each of the fiscal years 1986 through 1990,* for carrying out the provisions of this section, other than subsections (g) (1) and (2), (p), (r), and (t), except that such authorizations are not for any research, development, or demonstration activity pursuant to such provisions; (2) not to exceed $7,500,000 for fiscal years 1973, 1974, and 1975, $2,000,000 for fiscal year 1977, $3,000,000 for fiscal year 1978, $3,000,000 for fiscal year 1979, $3,000,000 for fiscal year 1980, $3,000,000 for fiscal year 1981, [and] $3,000,000 for fiscal year 1982 *such sums as may be necessary for fiscal years 1983 through 1985, and $3,000,000 per fiscal year for each of the fiscal years 1986 through 1990,* for carrying out the provisions of subsection (g)(1); (3) not to exceed $2,500,000 for fiscal years 1973, 1974, and 1975, $1,000,000 for fiscal year 1977, $1,500,000 for fiscal year 1978, $1,500,000 for fiscal year 1979, $1,500,000 for fiscal year 1980, $1,500,000 for fiscal year 1981, [and] $1,500,000 for fiscal year 1982 *such sums as may be necessary for fiscal years 1983 through 1985, and $1,500,000 per fiscal year for each of the fiscal years 1986 through 1990,* for carrying out the provisions of subsection (g)(2); (4) not to exceed $10,000,000 for each of the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, for carrying out the provisions of subsection (p); (5) not to exceed $15,000,000 per fiscal year for the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, for carrying out the provisions of subsection (r); and (6) not to exceed $10,000,000 per fiscal year for the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, for carrying out the provisions of subsection (t).

GRANTS FOR RESEARCH AND DEVELOPMENT

SEC. 105. (a) The Administrator is authorized to conduct in the Environmental Protection Agency, and to make grants to any State. municipality, or intermunicipal or interstate agency for the purpose of assisting in the development of—

(1) any project which will demonstrate a new or improved method of preventing, reducing, and eliminating the discharge into any waters of pollutants from sewers which carry storm water or both storm water and pollutants;

(2) any project which will demonstrate advanced waste treatment and water purification methods (including the temporary use of new or improved chemical additives which provide substantial immediate improvement to existing treatment processes), or new or improved methods of joint treatment systems for municipal and industrial wastes;

and to include in such grants such amounts as are necessary for the purpose of reports, plans and specifications in connection therewith.

(b) The Administrator is authorized to make grants to any State or States or interstate agency to demonstrate, in river basins or portions thereof, advanced treatment and environmental enhancement techniques to control pollution from all sources, within such basins or portions thereof, including nonpoint sources, together with in stream water quality improvement techniques.

(c) In order to carry out the purposes of section 301 of this Act, the Administrator is authorized to (1) conduct in the Environmental Protection Agency, (2) make grants to persons, and (3) enter into contracts with persons, for research and demonstration projects for prevention of pollution of any waters by industry including, but not limited to, the prevention, reduction, and elimination of the discharge of pollutants. No grant shall be made for any project under this subsection unless the Administrator determines that such project will develop or demonstrate a new or improved method of treating industrial wastes or otherwise prevent pollution by industry, which method shall have industry wide application.

(d) In carrying out the provisions of this section, the Administrator shall conduct, on a priority basis, an accelerated effort to develop, refine, and achieve practical application of:

(1) waste management methods applicable to point and nonpoint sources of pollutants to eliminate the discharge of pollutants, including, but not limited to, elimination of runoff of pollutants and the effects of pollutants from implace or accumulated sources;

(2) advanced waste treatment methods applicable to point and nonpoint sources, including inplace or accumulated sources of pollutants, and methods for reclaiming and ercycling water and confining pollutants so they will not migrate to cause water or other environmental pollution; and

(3) improve methods and procedures to identify and measure the effects of pollutants on the chemical, physical, and biological integrity of water, including those pollutants created by new technological developments.

(e)(1) The Administrator is authorized to (A) make, in consultation with the Secretary of Agriculture, grants to persons for research and demonstration projects with respect to new and improved methods of preventing, reducing, and eliminating pollution from agriculture, and (B) disseminate, in cooperation with the Secretary of Agriculture, such information obtained under this subsection, section 104(p), and section 304 as will encourage and enable the adoption of such methods in the agricultural industry.

(2) The Administrator is authorized, (A) in consultation with other interested Federal agencies, to make grants for demonstration projects with respect to new and improved methods of preventing, reducing, storing, collecting, treating, or otherwise eliminating pollution from sewage in rural and other areas where collection of sewage in conventional, community-wide sewage collection systems is impractical, uneconomical, or otherwise infeasible, or where soil conditions or other factors preclude the use of septic tank and drainage field systems, and (B) in cooperation with other interested Federal and State agencies, to disseminate such information obtained under this subsection as will encourage and enable the adoption of new and improved methods developed pursuant to this subsection.

(f) Federal grants under subsection (a) of this section shall be subject to the following limitations:

(1) No grant shall be made for any project unless such project shall have been approved by the appropriate State water pollution control agency or agencies and by the Administrator;

(2) No grant shall be made for any project in an amount exceeding 75 per centium of cost thereof as determined by the Administrator; and

(3) No grant shall be made for any project unless the Administrator determines that such project will serve as a useful demonstration for the purpose set forth in clause (1) or (2) of subsection (a).

(g) Federal grants under subsections (c) and (d) of this section shall not exceed 75 per centum of the cost of the project.

(h) For the purpose of this section there is authorized to be appropriated $75,000,000 per fiscal year for the fiscal year ending June 30, 1973, the fiscal year ending June 30, 1974, and the fiscal year ending June 30, 1975, and from such appropriations at least 10 per centum of the funds actually appropriated in each fiscal year shall be available only for the purposes of subsection (e).

(i) The Administrator is authorized to make grants to a municipality to assist in the costs of operating and maintaining a project which received a grant under this section, section 104, or section 113 of this Act prior to the date of enactment of this subsection so as to reduce the operation and maintenance costs borne by the recipients of services from such project to costs comparable to those for projects assisted under title II of this Act.

(j) The Administrator is authorized to make a grant to any grantee who received an increased grant pursuant to section 202(a)(2) of this Act. Such grant may pay up to 100 per centum of the costs of technical evaluation of the operation of the treatment works, cost of training of persons (other than employees of the grantee), and costs of disseminating technical information on the operation of the treatment works.

GRANTS FOR POLLUTION CONTROL PROGRAMS

SEC. 106. (a) There are hereby authorized to be appropriated the following sums, to remain available until expended, to carry out the purposes of this section—

(1) $60,000,000 for the fiscal year ending June 30, 1973; and

(2) $75,000,000 for the fiscal year ending June 30, 1974 and the fiscal year ending June 30, 1975, $100,000,000 per fiscal year for the fiscal years 1977, 1978, 1979, and 1980 $75,000,000 per fiscal year for the fiscal years 1981 and 1982, *such sums as may be necessary for fiscal years 1983 through 1985, and $75,000,000 per fiscal year for each of the fiscal years 1986 through 1990*

for grants to States and to interstate agencies to assist them in administering programs for the prevention, reduction, and elimination of pollution, including enforcement directly or through appropriate State law enforcement officers or agencies.

(b) From the sums appropriated in any fiscal year, the Administrator shall make allotments to the several States and interstate agencies in accordance with regulations promulgated by him on the basis of the extent of the pollution problem in the respective States.

(c) The Administrator is authorized to pay to each State and interstate agency each fiscal year either—

(1) the allotment of such State or agency for such fiscal year under subsection (b), or

(2) the reasonable costs as determined by the Administrator of developing and carrying out a pollution program by such State or agency during such fiscal year,

whichever amount is the lesser.

(d) No grant shall be made under this section to any State or interstate agency for any fiscal year when the expenditure of non-Federal funds by such State or interstate agency during such fiscal year for the recurrent expenses of carrying out its pollution control program are less than the expenditure by such State or interstate agency of non-Federal funds for such recurrent program expenses during the fiscal year ending June 30, 1971.

(e) Beginning in fiscal year 1974 the Administrator shall not make any grant under this section to any State which has not provided or is not carrying out as a part of its program—

(1) the establishment and operation of appropriate devices, methods, systems, and procedures necessary to monitor, and to compile and analyze data on (including classification according to eutrophic condition), the quality of navigable waters and to the extent practicable, ground waters including biological monitoring; and provision for annually updating such data and including it in the report required under section 305 of this Act;

(2) authority comparable to that in section 504 of this Act and adequate contingency plans to implement such authority.

(f) Grants shall be made under this section on condition that—

(1) Such State (or interstate agency) filed with the Administrator within one hundred and twenty days after the date of enactment of this section:

(A) a summary report of the current status of the State pollution control program, including the criteria used by the State in determining priority of treatment works; and

(B) such additional information, data, and reports as the Administrator may require.

(2) No federally assumed enforcement as defined in section 309(a)(2) is in effect with respect to such State or interstate agency.

(3) Such State (or interstate agency) submits within one hundred and twenty days after the date of enactment of this section and before July 1 of each year thereafter for the Administrator's approval of its program for the prevention, reduction, and elimination of pollution in accordance with purposes and provisions of this Act in such form and content as the Administrator may prescribe.

(g) Any sums allotted under subsection (b) in any fiscal year which are not paid shall be reallotted by the Administrator in accordance with regulations promulgated by him.

MINE WATER POLLUTION CONTROL DEMONSTRATIONS

SEC. 107. (a) The Administrator in cooperation with the Appalachian Regional Commission and other Federal agencies is authorized to conduct, to make grants for, or to contract for, projects to demonstrate comprehensive approaches to the elimination or control of acid or other mine water pollution resulting from active or abandoned mining operations and other environmental pollution affecting water quality within all or part of a watershed or river basin, including siltation from surface mining. Such projects shall demonstrate the engineering and economic feasibility and practicality of various abatement techniques which will contribute substantially to effective and practical methods of acid or other mine water pollution elimination or control, and other pollution affecting water quality, including techniques that demonstrate the engineering and economic feasibility and practicality of using sewage sludge materials and other municipal wastes to diminish or prevent pollution affecting water quality from acid, sedimentation, or other pollutants in such projects to restore affected lands to usefulness for forestry, agriculture, recreation, or other beneficial purposes.

(b) Prior to undertaking any demonstration project under this section in the Appalachian region (as defined in section 403 of the Appalachian Regional Development Act of 1965, as amended), the Appalachian Region Commission shall determine that such demonstration project is consistent with the objectives of the Appalachian Regional Development Act of 1965, as amended.

(c) The Administrator, in selecting watersheds for the purposes of this section, shall be satisfied that the project area will not be affected adversely by the influx of acid or other mine water pollution from nearby sources.

(d) Federal participation in such projects shall be subject to the conditions—

(1) that the State shall acquire any land or interests therein necessary for such project; and

(2) that the State shall provide legal and practical protection to the project area to insure against any activities which will cause future acid or other mine water pollution.

(e) There is authorized to be appropriated $30,000,000 to carry out the provisions of this section, which sum shall be available until expended.

POLLUTION CONTROL IN GREAT LAKES

SEC. 108. (a) The Administrator, in cooperation with other Federal departments, agencies, and instrumentalities is authorized to enter into agreements with any State, political subdivision, interstate agency, or other public agency, or combination thereof, to carry out one or more projects to demonstrate new methods and techniques and to develop preliminary plans for the elimination or control of pollution, within all or any part of the watersheds of the Great Lakes. Such projects shall demonstrate the engineering and economic feasibility and practicality of removal of pollutants and prevention of any polluting matter from entering into the Great Lakes in the future and other reduction and remedial techniques which will contribute substantially to effective and practical methods of pollution prevention, reduction, or elimination.

(b) Federal participation in such projects shall be subject to the condition that the State, political subdivision, interstate agency, or other public agency, or combination thereof, shall pay not less than 25 per centum of the actual project costs, which payment may be in any form, including, but not limited to, land or interests therein that is needed for the project, and personal property or services the value of which shall be determined by the Administrator.

(c) There is authorized to be appropriated $20,000,000 to carry out the provisions of subsections (a) and (b) of this section, which sum shall be available until expended.

(d)(1) In recognition of the serious conditions which exist in Lake Erie, the Secretary of the Army, acting through the Chief of Engineers, is directed to design and develop a demonstration waste water management program for the rehabilitation and environmental repair of Lake Erie. Prior to the initiation of detailed engineering and design, the program, along with the specific recommendations of the Chief of Engineers and recommendations for its financing, shall be submitted to the Congress for statutory approval. This authority is in addition to, and not in lieu of, other waste water studies aimed at eliminating pollution emanating from select sources around Lake Erie.

(2) The program is to be developed in cooperation with the Environmental Protection Agency, other interested departments, agencies, and instrumentalities of the Federal Government, and the States and their political subdivisions. This program shall set forth alternative systems for managing waste water on a regional basis and shall provide local and State governments with a range of choice as to the type of system to be used for the treatment of

waste water. These alternative systems shall include both advanced waste treatment technology and land disposal systems including aerated treatment-spray irrigation technology and will also include provisions for the disposal of solid wastes, including sludge. Such program should include measures to control point sources of pollution, area sources of pollution, including acid-mine drainage, urban runoff and rural runoff, and in place sources of pollution, including bottom loads, sludge banks, and polluted harbor dredgings.

(e) There is authorized to be appropriated $5,000,000 to carry out the provisions of subsection (d) of this section, which sum shall be available until expended.

TRAINING GRANTS AND CONTRACTS

SEC. 109. (a) The Administrator is authorized to make grants to or contracts with institutions of higher education, or combinations of such institutions, to assist them in planning, developing strengthening, improving, or carrying out programs or projects for the preparation of undergraduate students to enter an occupation which involves the design, operation, and maintenance of treatment works, and other facilities whose purpose is water quality control. Such grants or contracts may include payment of all or part of the cost of programs or projects such as—

(A) planning for the development or expansion of programs or projects for training persons in the operation and maintenance of treatment works;

(B) training and retraining of faculty members;

(C) conduct of short-term or regular session institutes for study by persons engaged in, or preparing to engage in, the preparation of students preparing to enter an occupation involving the operation and maintenance of treatment works;

(D) carrying out innovative and experimental programs of cooperative education involving alternate periods of full-time or part-time academic study at the institution and periods of full-time or part-time employment involving the operation and maintenance of treatment works; and

(E) research into, and development of, methods of training students or faculty, including the preparation of teaching materials and the planning of curriculum.

(b)(1) The Administrator may pay 100 per centum of any additional cost of construction of treatment works required for a facility to train and upgrade waste treatment works operation and maintenance personnel and for the costs of other State treatment works operator training programs, including mobile training units, classroom rental, specialized instructors, and instructional material.

(2) The Administrator shall make no more than one grant for such additional construction in any State (to serve a group of States, where, in his judgment, efficient training programs require multi-State programs), and shall make such grant after consultation with and approval by the State or States on the basis of (A) the suitability of such facility for training operation and maintenance personnel for treatment works throughout such State or States; and (B) a commitment by the State agency or agencies to

carry out at such facility a program of training approved by the Administrator. In any case where a grant is made to serve two or more States, the Administrator is authorized to make an additional grant for a supplemental facility in each such State.

(3) The Administrator may make such grant out of the sums allocated to a State under section 205 of this Act, except that in no event shall the Federal cost of any such training facilities exceed $500,000.

(4) The Administrator may exempt a grant under this section from any requirement under section 204(a)(3) of this Act. Any grantee who received a grant under this section prior to enactment of the Clean Water Act of 1977 shall be eligible to have its grant increased by funds made available under such Act.

APPLICATION FOR TRAINING GRANT OR CONTRACT; ALLOCATION OF GRANTS OR CONTRACTS

SEC. 110. (1) A grant or contract authorized by section 109 may be made only upon application to the Administrator at such time or times and containing such information as he may prescribe, except that no such application shall be approved unless it—

(A) sets forth programs, activities, research, or development for which a grant is authorized under section 109 and describes the relation to any program set forth by the applicant in an application, if any, submitted pursuant to section 111;

(B) provides such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this section; and

(C) provides for making such reports, in such form and containing such information, as the Administrator may require to carry out his functions under this section, and for keeping such records and for affording such access thereto as the Administrator may find necessary to assure the correctness and verification of such reports.

(2) The Administrator shall allocate grants or contracts under section 109 in such manner as will most nearly provide an equitable distribution of the grants or contracts throughout the United States among institutions of higher education which show promise of being able to use funds effectively for the purpose of this section.

(3)(A) Payments under this section may be used in accordance with regulations of the Administrator, and subject to the terms and conditions set forth in an application approved under paragraph (1), to pay part of the compensation of students employed in connection with the operation and maintenance of treatment works, other than as an employee in connection with the operation and maintenance of treatment works or as an employee in any branch of the Government of the United States, as part of a program for which a grant has been approved pursuant to this section.

(B) Departments and agencies of the United States are encouraged, to the extent consistent with efficient administration, to enter into arrangements with institutions of higher education for the fulltime, part-time, or temporary employment, whether in the competitive or expected service, of students enrolled in programs set forth in applications approved under paragraph (1).

AWARD OF SCHOLARSHIPS

SEC. 111. (1) The Administrator is authorized to award scholarships in accordance with the provisions of this section for undergraduate study by persons who plan to enter an occupation involving the operation and maintenance of treatment works. Such scholarships shall be awarded for such periods as the Administrator may determine but not to exceed four academic years.

(2) The Administrator shall allocate scholarships under this section among institutions of higher education with programs approved under the provisions of this section for the use of individuals accepted into such programs, in such manner and accordance to such plan as will insofar as practicable—

(A) provide and equitable distribution of such scholarships throughout the United States; and

(B) attract recent graduates of secondary schools to enter an occupation involving the operation and maintenance of treatment works.

(3) The Administrator shall approve a program of any institution of higher education for the purposes of this section only upon application by the institution and only upon his findings—

(A) that such program has a principal objective the education and training of persons in the operation and maintenance of treatment works;

(B) that such program is in effect and of high quality, or can be readily put into effect and may reasonably be expected to be of high quality;

(C) that the application, describes the relation of such program to any program, activity, research, or development set forth by the applicant in an application, if any, submitted pursuant to section 110 of this Act; and

(D) that the application contains satisfactory assurances that (i) the institution will recommend to the Administrator for the award of scholarships under this section, for study in such program, only persons who have demonstrated to the satisfaction of the institution a serious intent, upon completing the program, to enter an occupation involving the operation and maintenance of treatment works, and (ii) the institution will make reasonable continuing efforts to encourage recipients of scholarships under this section, enrolled in such program, to enter occupations involving the operation and maintenance of treatment works upon completing the program.

(4)(A) The Administrator shall pay to persons awarded scholarships under this section such stipends (including such allowances for subsistence and other expenses for such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

(B) The Administrator shall (in addition to the stipends paid to persons under paragraph (1) pay to the institution of higher education at which such person is pursuing his course of study such amount as he may determine to be consistent with prevailing practices under comparable federally supported programs.

(5) A person awarded a scholarship under the provisions of this section shall continue to receive the payments provided in this section only during such periods as the Administrator finds that he is maintaining satisfactory proficiency and devoting full time to study or research in the field in which such scholarship was awarded in an institution of higher education, and is not engaging in gainful employment other than employment approved by the Administrator by or pursuant to regulation.

(6) The Administrator shall by regulation provide that any person awarded a scholarship under this section shall agree in writing to enter and remain in an occupation involving the design, operation, or maintenance of treatment works for such period after completion of his course of studies as the Administrator determines appropriate.

DEFINITIONS AND AUTHORIZATIONS

Sec. 112. (a) As used in sections 109 through 112 of this Act—

(1) The term "institution of higher education" means an educational institution described in the first sentence of section 1201 of the Higher Education Act of 1965 (other than an institution of any agency of the United States) which is accredited by a nationally recognized accrediting agency or association approved by the Administrator for this purpose. For purposes of this subsection, the Administrator shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

(2) The term "academic year" means an academic year or its equivalent, as determined by the Administrator.

(b) The Administrator shall annually report his activities under sections 109 through 112 of this Act, including recommendations for needed revisions in the provisions thereof.

(c) There are authorized to be appropriated $25,000,000 per fiscal year for the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, $6,000,000 for the fiscal year ending September 30, 1977, $7,000,000 for the fiscal year ending September 30, 1978, $7,000,000 for the fiscal year ending September 30, 1979, $7,000,000 for the fiscal year ending September 30, 1980, $7,000,000 for the fiscal year ending September 30, 1981, [and] $7,000,000 for the fiscal year ending September 30, 1982 *such sums as may be necessary for fiscal years 1983 through 1985, and $7,000,000 per fiscal year for each of the fiscal years 1986 through 1990,* to carry out sections 109 through 112 of this Act.

ALASKA VILLAGE DEMONSTRATION PROJECTS

Sec. 113. (a) The Administrator is authorized to enter into agreements with the State of Alaska to carry out one or more projects to demonstrate methods to provide for central community facilities for safe water and elimination or control of pollution in those native villages of Alaska without such facilities. Such projects shall include provisions for community safe water supply systems, toilets, bathing and laundry facilities, sewage disposal facilities, and other similar facilities, and educational and informational facilities and programs relating to health and hygiene. Such demonstration projects shall be for the further purpose of developing preliminary plans for providing such safe water and such elimination or control of pollution for all native villages in such State.

(b) In carrying out this section the Administrator shall cooperate with the Secretary of Health, Education, and Welfare for the purpose of utilizing such of the personnel and facilities of that Department as may be appropriate.

(c) The Administrator shall report to Congress not later than July 1, 1973, the results of the demonstration projects authorized by this section together with his recommendations, including any necessary legislation, relating to the establishment of a statewide program.

(d) There is authorized to be appropriated not to exceed $2,000,000 to carry out this section. In addition, there is authorized to be appropriated to carry out this section not to exceed $200,000 for the fiscal year ending September 30, 1978, and $220,000 for the fiscal year ending September 30, 1979.

(e) The Administrator is authorized to coordinate with the Secretary of the Department of Health, Education, and Welfare, the Secretary of the Department of Housing and Urban Development, the Secretary of the Department of the Interior, the Secretary of the Department of Agriculture, and the heads of any other departments or agencies he may deem appropriate to conduct a joint study with representatives of the State of Alaska and the appropriate Native organizations (as defined in Public Law 92-203) to develop a comprehensive program for achieving adequate sanitation services in Alaska villages. This study shall be coordinated with the programs and projects authorized by sections 104(q) and 105(e)(2) of this Act. The Administrator shall submit a report of the results of the study, together with appropriate supporting data and such recommendations as he deems desirable, to the Committee on Environment and Public Works of the Senate and to the Committee on Public Works and Transportation of the House of Representatives not later than December 31, 1979. The Administrator shall also submit recommended administrative actions, procedures, and any proposed legislation necessary to implement the recommendations of the study no later than June 30, 1980.

(f) The Administrator is authorized to provide technical, financial and management assistance for operation and maintenance of the demonstration projects constructed under this section, until such time as the recommendations of subsection (e) are implemented.

(g) For the purpose of this section, the term "village" shall mean an incorporated or unincorporated community with a population of ten to six hundred people living within a two-mile radius. The term "sanitation services" shall mean water supply, sewage disposal, solid waste disposal and other services necessary to maintain generally accepted standards of personal hygiene and public health.

LAKE TAHOE STUDY

SEC. 114. (a) The Administrator, in consultation with the Tahoe Regional Planning Agency, the Secretary of Agriculture, other Federal agencies, representatives of State and local governments, and members of the public, shall conduct a thorough and complete study on the adequacy of and need for extending Federal oversight and control in order to preserve the fragile ecology of Lake Tahoe.

(b) Such study shall include an examination of the interrelationships and responsibilities of the various agencies of the Federal Government and State and local governments with a view to establishing the necessity for redefinition of legal and other arrangements between these various governments, and making specific legislative recommendations to Congress. Such study shall consider the effect of various actions in terms of their environmental impact on the Tahoe Basin, treated as an ecosystem.

(c) The Administrator shall report on such study to Congress not later than one year after the date of enactment of this subsection.

(d) There is authorized to be appropriated to carry out this section not to exceed $500,000.

IN-PLACE TOXIC POLLUTANTS

SEC. 115. The Administrator is directed to identify the location of in-place pollutants with emphasis on toxic pollutants in harbors and navigable waterways and is authorized, acting through the Secretary of the Army, to make contracts for the removal and appropriate disposal of such materials from critical port and harbor areas. There is authorized to be appropriated $15,000,000 to carry out the provisions of this section, which sum shall be available until expended.

HUDSON RIVER PCB RECLAMATION DEMONSTRATION PROJECT

SEC. 116. (a) The Administrator is authorized to enter into contracts and other agreements with the State of New York to carry out a project to demonstrate methods for the selective removal of polychlorinated biphenyls contaminating bottom sediments of the Hudson River, treating such sediments as required, burying such sediment in secure landfills, and installing monitoring systems for such landfills. Such demonstration project shall be for the purpose of determining the feasibility of indefinite storage in secure landfills of toxic substances and of ascertaining the improvement of the rate of recovery of a toxic contaminated national waterway. No pollutants removed pursuant to this paragraph shall be placed in any landfill unless the Administrator first determines that disposal of the pollutants in such landfill would provide a higher standard of protection of the public health, safety, and welfare than disposal of such pollutants by any other method including, but not limited to, incineration or a chemical destruction process.

(b) The Administrator is authorized to make grants to the State of New York to carry out this section from funds allotted to such State under section 205(a) of this Act, except that the amount of any such grant shall be equal to 75 per centum of the cost of the project and such grant shall be made on condition that non-Federal sources provide the remainder of the cost of such project. The authority of this section shall be available until September 30, 1983. Funds allotted to the State of New York under section 205(a) shall be available under this subsection only to the extent that funds are not available, as determined by the Administrator, to the State of New York for the work authorized by this section under section 115 or 311 of this Act or a comprehensive hazardous substance response and clean up fund. Any funds used under the authority of this subsection shall be deducted from any estimate of the needs of the State of New York prepared under section 616(b) of this Act. The Administrator may not obligate or expend more than $20,000,000 to carry out this section.

SEC. 117. CHESAPEAKE BAY.

(a) Office.—The Administrator shall continue the Chesapeake Bay Program and shall establish and maintain in the Environmental Protection Agency an office, division, or branch of Chesapeake Bay Programs to—

(1) collect and make available, through publications and other appropriate means, information pertaining to the environmental quality of the Chesapeake Bay (hereinafter in this subsection referred to as the "Bay");

(2) coordinate Federal and State efforts to improve the water quality of the Bay;

(3) determine the impact of sediment deposition in the Bay and identify the sources, rates, routes, and distribution patterns of such sediment deposition; and

(4) determine the impact of natural and man-induced environmental changes on the living resources of the Bay and the relationships among such changes, with particular emphasis placed on the impact of pollutant loadings of nutrients, chlorine, acid precipitation, dissolved oxygen, and toxic pollutants, including organic chemicals and heavy metals, and with special attention given to the impact of such changes on striped bass.

(b) Interstate Development Plan Grants.—

(1) Authority.—The Administrator shall, at the request of the Governor of a State affected by the interstate management plan developed pursuant to the Chesapeake Bay Program (hereinafter in this section referred to as the "plan"), make a grant for the purpose of implementing the management mechanisms contained in the plan if such State has, within 1 year after the date of the enactment of this section, approved and committed to implement all or substantially all aspects of the plan. Such grants shall be made subject to such terms and conditions as the Administrator considers appropriate.

(2) Submission of proposal.—A State or combination of States may elect to avail itself of the benefits of this subsection by submitting to the Administrator a comprehensive proposal to implement management mechanisms contained in the plan which shall include (A) a description of proposed abatement actions which the State or combination of States commits to take within a specified time period to reduce pollution in the Bay and to meet applicable water quality standards, and (B) the estimated cost of the abatement actions proposed to be taken

during the next fiscal year. If the Administrator finds that such proposal is consistent with the national policies set forth in section 101(a) of this Act and will contribute to the achievement of the national goals set forth in such section, the Administrator shall approve such proposal and shall finance the costs of implementing segments of such proposal.

(3) FEDERAL SHARE.—Grants under this subsection shall not exceed 50 percent of the costs of implementing the management mechanisms contained in the plan in any fiscal year and shall be made on condition that non-Federal sources provide the remainder of the cost of implementing the management mechanisms contained in the plan during such fiscal year.

(4) ADMINISTRATIVE COSTS.—Administrative costs in the form of salaries, overhead, or indirect costs for services provided and charged against programs or projects supported by funds made available under this subsection shall not exceed in any one fiscal year 10 percent of the annual Federal grant made to a State under this subsection.

(c) REPORTS.—Any State or combination of States that receives a grant under subsection (b) shall, within 18 months after the date of receipt of such grant and biennially thereafter, report to the Administrator on the progress made in implementing the interstate management plan developed pursuant to the Chesapeake Bay Program. The Administrator shall transmit each such report along with the comments of the Administrator on such report to Congress.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated the following sums, to remain available until expended, to carry out the purposes of this section:

(1) $3,000,000 per fiscal year for each of the fiscal years 1987, 1988, 1989, and 1990, to carry out subsection (a); and

(2) $10,000,000 per fiscal year for each of the fiscal years 1987, 1988, 1989, and 1990, for grants to States under subsection (b).

SEC. 118. GREAT LAKES.

(a) FINDINGS, PURPOSE, AND DEFINITIONS.—

(1) FINDINGS.—The Congress finds that—

(A) the Great Lakes are a valuable national resource, continuously serving the people of the United States and other nations as an important source of food, fresh water, recreation, beauty, and enjoyment;

(B) the United States should seek to attain the goals embodied in the Great Lakes Water Quality Agreement of 1978 with particular emphasis on goals related to toxic pollutants; and

(C) the Environmental Protection Agency should take the lead in the effort to meet those goals, working with other Federal agencies and State and local authorities.

(2) PURPOSE.—It is the purpose of this section to achieve the goals embodied in the Great Lakes Water Quality Agreement of 1978 through improved organization and definition of mission on the part of the Agency, funding of State grants for pollution control in the Great Lakes area, and improved accountability for implementation of such agreement.

(3) DEFINITIONS.—For purposes of this section, the term—

(A) "Agency" means the Environmental Protection Agency;

(B) "Great Lakes" means Lake Ontario, Lake Erie, Lake Huron (including Lake St. Clair), Lake Michigan, and Lake Superior, and the connecting channels (Saint Mary's River, Saint Clair River, Detroit River, Niagara River, and Saint Lawrence River to the Canadian Border);

(C) "Great Lakes System" means all the streams, rivers, lakes, and other bodies of water within the drainage basin of the Great Lakes;

(D) "Program Office" means the Great Lakes National Program Office established by this section; and

(E) "Research Office" means the Great Lakes Research Office established by subsection (d).

(b) Great Lakes National Program Office.—The Great Lakes National Program Office (previously established by the Administrator) is hereby established within the Agency. The Program Office shall be headed by a Director who, by reason of management experience and technical expertise relating to the Great Lakes, is highly qualified to direct the development of programs and plans on a variety of Great Lakes issues. The Great Lakes National Program Office shall be located in a Great Lakes State.

(c) Great Lakes Management.—

(1) Functions.—The Program Office shall—

(A) in cooperation with appropriate Federal, State, tribal, and international agencies, and in accordance with section 101(e) of this Act, develop and implement specific action plans to carry out the responsibilities of the United States under the Great Lakes Water Quality Agreement of 1978;

(B) establish a Great Lakes system-wide surveillance network to monitor the water quality of the Great Lakes, with specific emphasis on the monitoring of toxic pollutants;

(C) serve as the liaison with, and provide information to, the Canadian members of the International Joint Commission and the Canadian counterpart to the Agency;

(D) coordinate actions of the Agency (including actions by headquarters and regional offices thereof) aimed at improving Great Lakes water quality; and

(E) coordinate actions of the Agency with the actions of other Federal agencies and State and local authorities, so as to ensure the input of those agencies and authorities in developing water quality strategies and obtain the support of those agencies and authorities in achieving the objectives of such agreement.

(2) 5-year plan and program.—The Program Office shall develop, in consultation with the States, a five-year plan and program for reducing the amount of nutrients introduced into the Great Lakes. Such program shall incorporate any management program for reducing nutrient runoff from nonpoint sources established under section 319 of this Act and shall include a program for monitoring nutrient runoff into, and ambient levels in, the Great Lakes.

(3) 5-YEAR STUDY AND DEMONSTRATION PROJECTS.—The Program Office shall carry out a five-year study and demonstration projects relating to the control and removal of toxic pollutants in the Great Lakes, with emphasis on the removal of toxic pollutants from bottom sediments. In selecting locations for conducting demonstration projects under this paragraph, priority consideration shall be given to projects at the following locations: Saginaw Bay, Michigan; Sheboygan Harbor, Wisconsin; Grand Calumet River, Indiana; Ashtabula River, Ohio; and Buffalo River, New York.

(4) ADMINISTRATOR'S RESPONSIBILITY.—The Administrator shall ensure that the Program Office enters into agreements with the various organizational elements of the Agency involved in Great Lakes activities and the appropriate State agencies specifically delineating—

(A) the duties and responsibilities of each such element in the Agency with respect to the Great Lakes;

(B) the time periods for carrying out such duties and responsibilities; and

(C) the resources to be committed to such duties and responsibilities.

(5) BUDGET ITEM.—The Administrator shall, in the Agency's annual budget submission to Congress, include a funding request for the Program Office as a separate budget line item.

(6) COMPREHENSIVE REPORT.—Within 90 days after the end of each fiscal year, the Administrator shall submit to Congress a comprehensive report which—

(A) describes the achievements in the preceding fiscal year in implementing the Great Lakes Water Quality Agreement of 1978 and shows by categories (including judicial enforcement, research, State cooperative efforts, and general administration) the amounts expended on Great Lakes water quality initiatives in such preceding fiscal year;

(B) describes the progress made in such preceding fiscal year in implementing the system of surveillance of the water quality in the Great Lakes System, including the monitoring of groundwater and sediment, with particular reference to toxic pollutants;

(C) describes the long-term prospects for improving the condition of the Great Lakes; and

(D) provides a comprehensive assessment of the planned efforts to be pursued in the succeeding fiscal year for implementing the Great Lakes Water Quality Agreement of 1978, which assessment shall—

(i) show by categories (including judicial enforcement, research, State cooperative efforts, and general administration) the amount anticipated to be expended on Great Lakes water quality initiatives in the fiscal year to which the assessment relates; and

(ii) include a report of current programs administered by other Federal agencies which make available resources to the Great Lakes water quality management efforts.

(d) GREAT LAKES RESEARCH.—

(1) ESTABLISHMENT OF RESEARCH OFFICE.—There is established within the National Oceanic and Atmospheric Administration the Great Lakes Research Office.

(2) IDENTIFICATION OF ISSUES.—The Research Office shall identify issues relating to the Great Lakes resources on which research is needed. The Research Office shall submit a report to Congress on such issues before the end of each fiscal year which shall identify any changes in the Great Lakes system with respect to such issues.

(3) INVENTORY.—The Research Office shall identify and inventory Federal, State, university, and tribal environmental research programs (and, to the extent feasible, those of private organizations and other nations) relating to the Great Lakes system, and shall update that inventory every four years.

(4) RESEARCH EXCHANGE.—The Research Office shall establish a Great Lakes research exchange for the purpose of facilitating the rapid identification, acquisition, retrieval, dissemination, and use of information concerning research projects which are ongoing or completed and which affect the Great Lakes System.

(5) RESEARCH PROGRAM.—The Research Office shall develop, in cooperation with the Coordination Office, a comprehensive environmental research program and data base for the Great Lakes system. The data base shall include, but not be limited to, data relating to water quality, fisheries, and biota.

(6) MONITORING.—The Research Office shall conduct, through the Great Lakes Environmental Research Laboratory, the National Sea Grant College program, other Federal laboratories, and the private sector, appropriate research and monitoring activities which address priority issues and current needs relating to the Great Lakes.

(7) LOCATION.—The Research Office shall be located in a Great Lakes State.

(e) RESEARCH AND MANAGEMENT COORDINATION.—

(1) JOINT PLAN.—Before October 1 of each year, the Program Office and the Research Office shall prepare a joint research plan for the fiscal year which begins in the following calendar year.

(2) CONTENTS OF PLAN.—Each plan prepared under paragraph (1) shall—

(A) identify all proposed research dedicated to activities conducted under the Great Lakes Water Quality Agreement of 1978;

(B) include the Agency's assessment of priorities for research needed to fulfill the terms of such Agreement; and

(C) identify all proposed research that may be used to develop a comprehensive environmental data base for the Great Lakes System and establish priorities for development of such data base.

(f) INTERAGENCY COOPERATION.—The head of each department, agency, or other instrumentality of the Federal Government which is engaged in, is concerned with, or has authority over programs relating to research, monitoring, and planning to maintain, enhance, preserve, or rehabilitate the environmental quality and natural re-

sources of the Great Lakes, including the Chief of Engineers of the Army, the Chief of the Soil Conservation Service, the Commandant of the Coast Guard, the Director of the Fish and Wildlife Service, and the Administrator of the National Oceanic and Atmospheric Administration, shall submit an annual report to the Administrator with respect to the activities of that agency or office affecting compliance with the Great Lakes Water Quality Agreement of 1978.

(g) RELATIONSHIP TO EXISTING FEDERAL AND STATE LAWS AND INTERNATIONAL TREATIES.—Nothing in this section shall be construed to affect the jurisdiction, powers, or prerogatives of any department, agency, or officer of the Federal Government or of any State government, or of any tribe, nor any powers, jurisdiction, or prerogatives of any international body created by treaty with authority relating to the Great Lakes.

(h) AUTHORIZATIONS OF GREAT LAKES APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out this section not to exceed $11,000,000 per fiscal year for the fiscal years 1987, 1988, 1989, 1990, and 1991. Of the amounts appropriated each fiscal year—

(1) 40 percent shall be used by the Great Lakes National Program Office on demonstration projects on the feasibility of controlling and removing toxic pollutants;

(2) 7 percent shall be used by the Great Lakes National Program Office for the program of nutrient monitoring; and

(3) 30 percent shall be transferred to the National Oceanic and Atmospheric Administration for use by the Great Lakes Research Office.

TITLE II—GRANTS FOR CONSTRUCTION OF TREATMENT WORKS

PURPOSE

SEC. 201. (a) It is the purpose of this title to require and to assist the development and implementation of waste treatment management plans and practices which will achieve the goals of this Act.

(b) Waste treatment management plans and practices shall provide for the application of the best practicable waste treatment technology before any discharge into receiving waters, including reclaiming and recycling of water, and confined disposal of pollutants so they will not migrate to cause water or other environmental pollution and shall provide for consideration of advanced waste treatment techniques.

(c) To the extent practicable, waste treatment management shall be on an areawide basis and provide control or treatment of all point and nonpoint sources of pollution, including in place or accumulated pollution sources.

(d) The Administrator shall encourage waste treatment management which results in the construction of revenue producing facilities providing for—

(1) the recycling of potential sewage pollutants through the production of agriculture, silviculture, or aquaculture products, or any combination thereof;

(2) the confined and contained disposal of pollutants not recycled;

(3) the reclamation of wastewater; and

(4) the ultimate disposal of sludge in a manner that will not result in environmental hazards.

(e) The Administrator shall encourage waste treatment management which results in integrating facilities for sewage treatment and recycling with facilities to treat, dispose of, or utilize other industrial and municipal wastes, including but not limited to solid waste and waste heat and thermal discharges. Such integrated facilities shall be designed and operated to produce revenues in excess of capital and operation and maintenance costs and such revenues shall be used by the designated regional management agency to aid in financing other environmental improvement programs.

(f) The Administrator shall encourage waste treatment management which combines "open space" and recreational considerations with such management.

(g)(1) The Administrator is authorized to make grants to any State, municipality, or intermunicipal or interstate agency for the construction of publicly owned treatment works. On and after October 1, 1984, grants under this title shall be made only for projects for secondary treatment or more stringent treatment, or any cost effective alternative thereto, new interceptors and appurtenances, and infiltration-in-flow correction. Notwithstanding the preceding **[**sentence,**]** *sentences,* the Administrator may make grants on and after October 1, 1984, for *(A)* any project within the definition set forth in section 212(2) of this Act, other than for a project referred to in the preceding sentence, *and (B) any purpose for which a grant may be made under sections 319 (h) and (i) of this Act (including any innovative and alternative approaches for the control of nonpoint sources of pollution),* except that not more than 20 per centum (as determined by the Governor of the State) of the amount allotted to a State under section 205 of this Act for any fiscal year shall be obligated in such State under authority of this sentence.

(2) The Administrator shall not make grants from funds authorized for any fiscal year beginning after June 30, 1974, to any State, municipality, or intermunicipal or interstate agency for the erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works unless the grant applicant has satisfactorily demonstrated to the Administrator that—

(A) alternative waste management techniques have been studied and evaluated and the works proposed for grant assistance will provide for the application of the best practicable waste treatment technology over the life of the works consistent with the purposes of this title; and

(B) as appropriate, the works proposed for grant assistance will take into account and allow to the extent practicable the application of technology at a later date which will provide for the reclaiming or recycling of water or otherwise eliminate the discharge of pollutants.

(3) The Administrator shall not approve any grant after July 1, 1973, for treatment works under this section unless the applicant shows to the satisfaction of the Administrator that each sewer collection system discharging into such treatment works is not subject to excessive infiltration.

(4) The Administrator is authorized to make grants to applicants for treatment works grants under this section for such sewer system evaluation studies as may be necessary to carry out the requirements of paragraph (3) of this subsection. Such grants shall be made in accordance with rules and regulations promulgated by the Administrator. Initial rules and regulations shall be promulgated under this paragraph not later than 120 days after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972.

(5) The Administrator shall not make grants from funds authorized for any fiscal year beginning after September 30, 1978, to any State, municipality, or intermunicipal or interstate agency for the erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works unless the grant applicant has satisfactorily demonstrated to the Administrator that innovative and alternative wastewater treatment processes and techniques which provide for the reclaiming and reuse of water, otherwise eliminate the discharge of pollutants, and utilize recycling techniques, land treatment, new or improved methods of waste treatment management for municipal and industrial waste (discharged into municipal systems) and the confined disposal of pollutants, so that pollutants will not migrate to cause water or other environmental pollution, have been fully studied and evaluated by the applicant taking into account section 201(d) of this Act and taking into account and allowing to the extent practicable the more efficient use of energy and resources.

(6) The Administrator shall not make grants from funds authorized for any fiscal year beginning after September 30, 1978, to any State, municipality, or intermunicipal or interstate agency for the erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works unless the grant applicant has satisfactorily demonstrated to the Administrator that the applicant has analyzed the potential recreation and open space opportunities in the planning of the proposed treatment works.

(h) A grant may be made under this section to construct a privately owned treatment works serving one or more principal residences or small commercial establishments constructed prior to, and inhabited on the date of enactment of this subsection where the Administrator finds that—

(1) a public body otherwise eligible for a grant under subsection (g) of this section has applied on behalf of a number of such units and certified that public ownership of such works is not feasible;

(2) such public body has entered into an agreement with the Administrator which guarantees that such treatment works will be properly operated and maintained and will comply with all other requirements of section 204 of this Act and includes a system of charges to assure that each recipient of waste treatment services under such a grant will pay its proportionate share of the cost of operation and maintenance (including replacement); and

(3) the total cost and environmental impact of providing waste treatment services to such residences or commercial es-

tablishments will be less than the cost of providing a system of collection and central treatment of such wastes.

(i) The Administrator shall encourage waste treatment management methods, processes, and techniques which will reduce total energy requirements.

(j) The Administrator is authorized to make a grant for any treatment works utilizing processes and techniques meeting the guidelines promulgated under section 304(d)(3) of this Act, if the Administrator determines it is in the public interest and if in the cost effectiveness study made of the construction grant application for the purpose of evaluating alternative treatment works, the life cycle cost of the treatment works for which the grant is to be made does not exceed the life cycle cost of the most effective alternative by more than 15 per centum.

(k) No grant made after November 15, 1981, for a publicly owned treatment works, other than for facility planning and the preparation of construction plans and specifications, shall be used to treat, store, or convey the flow of any industrial user into such treatment works in excess of a flow per day equivalent to fifty thousand gallons per day of sanitary waste. This subsection shall not apply to any project proposed by a grantee which is carrying out an approved project to prepare construction plans and specifications for a facility to treat wastewater, which received it grant approval before May 15, 1980. This subsection shall not be in effect after November 15, 1981.

(l)(1) After the date of enactment of this subsection, Federal grants shall not be made for the purpose of providing assistance solely for facility plans, or plans, specifications, and estimates for any proposed project for the construction of treatment works. In the event that the proposed project receives a grant under this section for construction, the Administrator shall make an allowance in such grant for non-Federal funds expended during the facility planning and advanced engineering and design phase at the prevailing Federal share under section 202(a) of this Act, based on the percentage of total project costs which the Administrator determines is the general experience for such projects.

(2)(A) Each State shall use a portion of the funds allotted to such State each fiscal year, but not to exceed 10 per centum of such funds, to advance to potential grant applicants under this title the costs of facility planning or the preparation of plans, specifications, and estimates.

(B) Such an advance shall be limited to the allowance for such costs which the Administrator establishes under paragraph (1) of this subsection, and shall be provided only to a potential grant applicant which is a small community and which in the judgment of the State would otherwise be unable to prepare a request for a grant for construction costs under this section.

(C) In the event a grant for construction costs is made under this section for a project for which an advance has been made under this paragraph, the Administrator shall reduce the amount of such grant by the allowance established under paragraph (1) of this subsection. In the event no such grant is made, the State is authorized to seek repayment of such advance on such terms and conditions as it may determine.

(m)(1) Notwithstanding any other provisions of this title, the Administrator is authorized to make a grant from any funds otherwise allotted to the State of California under section 205 of this Act to the project (and in the amount) specified in Order WQG 81-1 of the California State Water Resources Control Board.

(2) Notwithstanding any other provision of this Act, the Administrator shall make a grant from any funds otherwise allotted to the State of California to the city of Eureka, California, in connection with project numbered C-06-2772, for the purchase of one hundred and thirty-nine acres of property as environmental mitigation for siting of the proposed treatment plant.

(3) Notwithstanding any other provision of this Act, the Administrator shall make a grant from any funds otherwise allotted to the State of California to the city of San Diego, California, in connection with that city's aquaculture sewage process (total resources recovery system) as an innovative and alternative waste treatment process.

(n)(1) On and after October 1, 1984, upon the request of the Governor of an affected State, the Administrator is authorized to use funds available to such State under section 205 to address water quality problems due to the impacts of discharges from combined storm water and sanitary sewer overflows, which are not otherwise eligible under this subsection, where correction of such discharges is a major priority for such State.

(2) Beginning fiscal year 1983, the Administrator shall have available $200,000,000 per fiscal year in addition to those funds authorized in section 207 of this Act to be utilized to address water quality problems of marine bays and estuaries subject to lower levels of water quality due to the impacts of discharges from combined storm water and sanitary sewer overflows from adjacent urban complexes, not otherwise eligible under this subsection. Such sums may be used as deemed appropriate by the Administrator as provided in paragraphs (1) and (2) of this subsection, upon the request of and demonstration of water quality benefits by the Governor of an affected State.

(o) The Administrator shall encourage and assist applicants for grant assistance under this title to develop and file with the Administrator a capital financing plan which, at a minimum—

(1) projects the future requirements for waste treatment services within the applicant's jurisdiction for a period of no less than ten years;

(2) projects the nature, extent, timing, and costs of future expansion and reconstruction of treatment works which will be necessary to satisfy the applicant's projected future requirements for waste treatment services; and

(3) sets forth with specificity the manner in which the applicant intends to finance such future expansion and reconstruction.

(p) Time Limit on Resolving Certain Disputes.—In any case in which a dispute arises with respect to the awarding of a contract for construction of treatment works by a grantee of funds under this title and a party to such dispute files an appeal with the Administrator under this title for resolution of such dispute, the Adminis-

trator shall make a final decision on such appeal within 90 days of the filing of such appeal.

FEDERAL SHARE

SEC. 202. (a)(1) The amount of any grant for treatment works made under this Act from funds authorized for any fiscal year beginning after June 30, 1971 and ending before October 1, 1984, shall be 75 per centum of the cost of construction thereof (as approved by the Administrator), and for any fiscal year beginning on or after October 1, 1984, shall be 55 per centum of the cost of construction thereof (as approved by the Administrator) unless modified to a lower percentage rate uniform throughout a State by the Governor of that State with the concurrence of the Administrator. Within ninety days after the enactment of this sentence the Administrator shall issue guidelines for concurrence in any such modification, which shall provide for the consideration of the unobligated balance of sums allocated to the State under section 205 of this Act, the need for assistance under this title in such State, and the availability of State grant assistance to replace the Federal share reduced by such modification. The payment of any such reduced Federal share shall not constitute an obligation on the part of the United States or a claim on the part of any State or grantee to reimbursement for the portion of the Federal share reduced in any such State. Any grant (other than for reimbursement) made prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 from any funds authorized for any fiscal year beginning after June 30, 1971, shall, upon the request of the applicant, be increased to the applicable percentage under this section. Notwithstanding the first sentence of this paragraph, in any case where a primary, secondary, or advanced waste treatment facility or its related interceptors or a project for infiltration-inflow correction has received a grant for erection, building, acquisition, alteration, remodeling, improvement, extension, or correction before October 1, 1984, all segments and phases of such facility, interceptors and project for infiltration-in-flow correction shall be eligible for grants at 75 per centum of the cost of construction thereof *for any grant made pursuant to a State obligation which obligation occurred before October 1, 1990. Notwithstanding the first sentence of this paragraph, in the case of a project for which an application for a grant under this title has been made to the Administrator before October 1, 1984, and which project is under judicial injunction on such date prohibiting its construction, such project shall be eligible for grants at 75 percent of the cost of construction thereof. Notwithstanding the first sentence of this paragraph, in the case of the Wyoming Valley Sanitary Authority project mandated by judicial order under a proceeding begun prior to October 1, 1984, and a project for wastewater treatment for Altoona, Pennsylvania, such projects shall be eligible for grants at 75 percent of the cost of construction thereof.*

(2) The amount of any grant made after September 30, 1978, and before October 1, 1981, for any eligible treatment works or significant portion thereof utilizing innovative or alternative wastewater treatment processes and techniques referred to in section 201(g)(5)

shall be 85 per centum of the cost of construction thereof, unless modified by the Governor of the State with the concurrence of the Administrator to a percentage rate no less than 15 per centum greater than the modified uniform percentage rate in which the Administrator has concurred pursuant to paragraph (1) of this subsection. The amount of any grant made after September 30, 1981, for any eligible treatment works or unit processes and techniques thereof utilizing innovative or alternative wastewater treatment processes and techniques referred to in section 201(g)(5) shall be a percentage of the cost of construction thereof equal to 20 per centum greater than the percentage in effect under paragraph (1) of this subsection for such works or unit processes and techniques, but in no event greater than 85 per centum of the cost of construction thereof. No grant shall be made under this paragraph for construction of a treatment works in any State unless the proportion of the State contribution to the non-Federal share of construction costs for all treatment works in such State receiving a grant under this paragraph is the same as or greater than the proportion of the State contribution (if any) to the non-Federal share of construction costs for all treatment works receiving grants in such State under paragraph (1) of this subsection.

(3) In addition to any grant made pursuant to paragraph (2) of this subsection, the Administrator is authorized to make a grant to fund all of the costs of the modification or replacement of any facilities constructed with a grant made pursuant to paragraph (2) if the Administrator finds that such facilities have not met design performance specifications unless such failure is attributable to negligence on the part of any person and if such failure has significantly increased capital or operating and maintenance expenditures. *In addition, the Administrator is authorized to make a grant to fund all of the costs of the modification or replacement of biodisc equipment (rotating biological contactors) in any publicly owned treatment works if the Administrator finds that such equipment has failed to meet design performance specifications, unless such failure is attributable to negligence on the part of any person, and if such failure has significantly increased capital or operating and maintenance expenditures.*

(4) For the purposes of this section, the term "eligible treatment works" means those treatment works in each State which meet the requirements of section 201(g)(5) of this Act and which can be fully funded from funds available for such purpose in such State.

(b) The amount of the grant for any project approved by the Administrator after January 1, 1971, and before July 1, 1971, for the construction of treatment works, the actual erection, building or acquisition of which was not commenced prior to July 1, 1971, shall, upon the request of the applicant, be increased to the applicable percentage under subsection (a) of this section for grants for treatment works from funds for fiscal years beginning after June 20, 1971, with respect to the cost of such actual erection, building, or acquisition. Such increased amount shall be paid from any funds allocated to the State in which the treatment works is located without regard to the fiscal year for which such funds were authorized. Such increased amount shall be paid for such project only if—

(1) a sewage collection system that is a part of the same total waste treatment system as the treatment works for which such grant was approved is under construction or is to be constructed for use in conjunction with such treatment works, and if the cost of such sewage collection system exceeds the cost of such treatment works, and

(2) the State waste pollution control agency or other appropriate State authority certifies that the quantity of available ground water will be insufficient, inadequate, or unsuitable for public use, including the ecological preservation and recreational use of surface water bodies, unless effluents from publicly owned treatment works after adequate treatment are returned to the ground water consistent with acceptable technological standards.

PLANS, SPECIFICATIONS, ESTIMATES, AND PAYMENTS

SEC. 203. (a)*(1)* Each applicant for a grant shall submit to the Administrator for his approval, plans, specifications, and estimates for each proposed project for the construction of treatment works for which a grant is applied for under section 201(g)(1) from funds allotted to the State under section 205 and which otherwise meets the requirements of this Act. The Administrator shall act upon such plans, specifications, and estimates as soon as practicable after the same have been submitted, and his approval of any such plans, specifications, and estimates shall be deemed a contractual obligation of the United States for the payment of its proportional contribution to such project.

(2) AGREEMENT ON ELIGIBLE COSTS.—

(A) LIMITATION ON MODIFICATIONS.—Before taking final action on any plans, specifications, and estimates submitted under this subsection after the 60th day following the date of the enactment of the Water Quality Act of 1987, the Administrator shall enter into a written agreement with the applicant which establishes and specifies which items of the proposed project are eligible for Federal payments under this section. The Administrator may not later modify such eligibility determinations unless they are found to have been made in violation of applicable Federal statutes and regulations.

(B) LIMITATION ON EFFECT.—Eligibility determinations under this paragraph shall not preclude the Administrator from auditing a project pursuant to section 501 of this Act, or other authority, or from withholding or recovering Federal funds for costs which are found to be unreasonable, unsupported by adequate documentation, or otherwise unallowable under applicable Federal cost principles, or which are incurred on a project which fails to meet the design specifications or effluent limitations contained in the grant agreement and permit pursuant to section 402 of this Act for such project.

(3) In the case of a treatment works that has an estimated total cost of $8,000,000 or less (as determined by the Administrator, and the population of the applicant municipality is twenty-five thousand or less (according to the most recent United States census), upon completion of an approved facility plan, a single grant may

be awarded for the combined Federal share of the cost of preparing construction plans and specifications, and the building and erection of the treatment works.

(b) The Administrator shall, from time to time as the work progresses, make payments to the recipient of a grant for costs of construction incurred on a project. These payments shall at no time exceed the Federal share of the cost of constrution incurred to the date of the voucher covering such payment plus the Federal share of the value of the materials which have been stockpiled in the vicinity of such construction on conformity to plans and specifications for the project.

(c) After completion of a project and approval of the final voucher by the Administrator, he shall pay out of the appropriate sums the unpaid balance of the Federal share payable on account of such project.

(d) Nothing in this Act shall be construed to require, or to authorize the Administrator to require, that grants under this Act for construction of treatment works be made only for projects which are operable units usable for sewage collection, transportation, storage, waste treatment, or for similar purposes without additional construction.

(e) At the request of a grantee under this title, the Administrator is authorized to provide technical and legal assistance in the administration and enforcement of any contract in connection with treatment works assisted under this title, and to intervene any civil action involving the enforcement of such a contract.

(f) DESIGN/BUILD PROJECTS.—

(1) AGREEMENT.—Consistent with State law, an applicant who proposes to construct waste water treatment works may enter into an agreement with the Administrator under this subsection providing for the preparation of construction plans and specifications and the erection of such treatment works, in lieu of proceeding under the other provisions of this section.

(2) LIMITATION ON PROJECTS.—Agreements under this subsection shall be limited to projects under an approved facility plan which projects are—

(A) treatment works that have an estimated total cost of $8,000,000 or less; and

(B) any of the following types of waste water treatment systems: aerated lagoons, trickling filters, stabilization ponds, land application systems, sand filters, and subsurface disposal systems.

(3) REQUIRED TERMS.—An agreement entered into under this subsection shall—

(A) set forth an amount agreed to as the maximum Federal contribution to the project, based upon a competitively bid document of basic design data and applicable standard construction specifications and a determination of the federally eligible costs of the project at the applicable Federal share under section 202 of this Act;

(B) set forth dates for the start and completion of construction of the treatment works by the applicant and a schedule of payments of the Federal contribution to the project;

(C) contain assurances by the applicant that (i) engineering and management assistance will be provided to manage the project; (ii) the proposed treatment works will be an operable unit and will meet all the requirements of this title; and (iii) not later than 1 year after the date specified as the date of completion of construction of the treatment works, the treatment works will be operating so as to meet the requirements of any applicable permit for such treatment works under section 402 of this Act;

(D) require the applicant to obtain a bond from the contractor in an amount determined necessary by the Administrator to protect the Federal interest in the project; and

(E) contain such other terms and conditions as are necessary to assure compliance with this title (except as provided in paragraph (4) of this subsection).

(4) LIMITATION ON APPLICATION.—Subsections (a), (b), and (c) of this section shall not apply to grants made pursuant to this subsection.

(5) RESERVATION TO ASSURE COMPLIANCE.—The Administrator shall reserve a portion of the grant to assure contract compliance until final project approval as defined by the Administrator. If the amount agreed to under paragraph (3)(A) exceeds the cost of designing and constructing the treatment works, the Administrator shall reallot the amount of the excess to the State in which such treatment works are located for the fiscal year in which such audit is completed.

(6) LIMITATION ON OBLIGATIONS.—The Administrator shall not obligate more than 20 percent of the amount allotted to a State for a fiscal year under section 205 of this Act for grants pursuant to this subsection.

(7) ALLOWANCE.—The Administrator shall determine an allowance for facilities planning for projects constructed under this subsection in accordance with section 201(l).

(8) LIMITATION ON FEDERAL CONTRIBUTIONS.—In no event shall the Federal contribution for the cost of preparing construction plans and specifications and the building and erection of treatment works pursuant to this subsection exceed the amount agreed upon under paragraph (3).

(9) RECOVERY ACTION.—In any case in which the recipient of a grant made pursuant to this subsection does not comply with the terms of the agreement entered into under paragraph (3), the Administrator is authorized to take such action as may be necessary to recover the amount of the Federal contribution to the project.

(10) PREVENTION OF DOUBLE BENEFITS.—A recipient of a grant made pursuant to this subsection shall not be eligible for any other grants under this title for the same project.

LIMITATIONS AND CONDITIONS

SEC. 204. (a) Before approving grants for any project for any treatment works under section 201(g)(1) the Administrator shall determine—

[(1) that such works are included in any applicable areawide waste treatment management plan developed under section 208 of this Act;

[(2) that such works are in conformity with any applicable State plan under section 303(e) of this Act;]

(1) that any required areawide waste treatment management plan under section 208 of this Act (A) is being implemented for such area and the proposed treatment works are included in such plan, or (B) is being developed for such area and reasonable progress is being made toward its implementation and the proposed treatment works will be included in such plan;

(2) that (A) the State in which the project is to be located (i) is implementing any required plan under section 303(e) of this Act and the proposed treatment works are in conformity with such plan, or (ii) is developing such a plan and the proposed treatment works will be in conformity with such plan, and (B) such State is in compliance with section 305(b) of this Act;

(3) that such works have been certified by the appropriate State water pollution control agency as entitled to priority over such other works in the State in accordance with any applicable State plan under section 303(e) of this Act, except that any priority list developed pursuant to section 303(e)(3)(H) may be modified by such State in accordance with regulations promulgated by the Administrator to give higher priority for grants for the Federal share of cost of preparing construction drawings and specifications for any treatment works utilizing processes and techniques meeting the guidelines promulgated under section 304(d)(3) of this Act and for grants for the combined Federal share of the cost of preparing construction drawings and specifications and the building and erection of any treatment works meeting the requirements of the next to the last sentence of section 203(a) of this Act which utilizes processes and techniques meeting the guidelines promulgated under section 304(d)(3) of this Act;

(4) that the applicant proposing to construct such works agrees to pay the non-Federal costs of such works and has made adequate provisions satisfactory to the Administrator for assuring proper and efficient operation, including the employment of trained management and operations personnel, and the maintenance of such works in accordance with a plan of operation approved by the State water pollution control agency or, as appropriate, the interstate agency, after construction thereof;

(5) that the size and capacity of such works relate directly to the needs to be served by such works, including sufficient reserve capacity. The amount of reserve capacity provided shall be approved by the Administrator on the basis of a comparison of the cost of constructing such reserves as a part of the works to be funded and the anticipated cost of providing expanded capacity at a date when such capacity will be required after taking into account, in accordance with regulations promulgated by the Administrator, efforts to reduce total flow of sewage and unnecessary water consumption. The amount of reserve capacity eligible for a grant under this title shall be deter-

mined by the Administrator taking into account the projected population and associated commercial and industrial establishments within the jurisdiction of the applicant to be served by such treatment works as identified in an approved facilities plan, and areawide plan under section 208, or an applicable municipal master plan of development. For the purpose of this paragraph, section 208, and any such plan, projected population shall be determined on the basis of the latest information available from the United States Department of Commerce or from the States as the Administrator, by regulation, determines appropriate. Beginning October 1, 1984, no grant shall be made under this title to construct that portion of any treatment works providing reserve capacity in excess of existing needs (including existing needs of residential, commercial, industrial, and other users) on the date of approval of a grant for the erection, building, acquisition, alteration, remodeling, improvement, or extension of a project for secondary treatment or more stringent treatment or new interceptors and appurtenances, except that in no event shall reserve capacity of a facility and its related interceptors to which this subsection applies be in excess of existing needs on October 1, 1990. In any case in which an applicant proposes to provide reserve capacity greater than that eligible for Federal financial assistance under this title, the incremental costs of the additional reserve capacity shall be paid by the applicant;

(6) that no specification for bids in connection with such works shall be written in such a manner as to contain proprietary, exclusionary, or discriminatory requirements other than those based upon performance, unless such requirements are necessary to test or demonstrate a specific thing or to provide for necessary interchangeability of parts and equipment or at least two brand names or trade names of comparable quality or utility are listed and are followed by the words "or equal". When in the judgment of the grantee, it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement, and in doing so the grantee need not establish the existence of any source other than the brand or source so named.

(b)(1) Notwithstanding any other provision of this title, the Administrator shall not approve any grant for any treatment works under section 201(g)(1) after March 1, 1973, unless he shall first have determined that the applicant (A) has adopted or will adopt a system of charges to assure that each recipient of waste treatment services within the applicant's jurisdiction, as determined by the Administrator, will pay its proportionate share (except as otherwise provided in this paragraph) of the costs of operation and maintenance (including replacement) of any waste treatment services provided by the applicant; and (B) has legal, institutional, managerial, and financial capability to insure adequate construction, operation, and maintenance of treatment works throughout the applicant's jurisdiction, as determined by the Administrator. In any case where an applicant which, as of the date of enactment of this sentence, uses a system of dedicated ad valorem taxes and the Administrator determines that the applicant has a system of charges which result in the distribution of operation and maintenance costs for treatment works within the applicant's jurisdiction, to each user class, in proportion to the contribution to the total cost of operation and maintenance of such works by each user class (taking into account total waste water loading of such works, the constituent elements of the waste, and other appropriate factors), and such applicant is otherwise in compliance with clause (A) of this paragraph with respect to each industrial user, then such dedicated ad valorem tax system shall be deemed to be the user charge system meeting the requirements of clause (A) of this paragraph for the residential user class and such small non-residential user classes as defined by the Administrator. In defining small non-residential users, the Administrator shall consider the volume of wastes discharged into the treatment works by such users and the constituent elements of such wastes as well as such other factors as he deems appropriate. *A system of user charges which imposes a lower charge for low-income residential users (as defined by the Administrator) shall be deemed to be a user charge system meeting the requirements of clause (A) of this paragraph if the Administrator determines that such system was adopted after public notice and hearing.*[1]

(2) The Administrator shall, within one hundred and eighty days after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, and after consultation with appropriate State, interstate, municipal, and intermunicipal agencies, issue guidelines applicable to payment of waste treatment costs by industrial and nonindustrial recipients of waste treatment services which shall establish (A) classes of users of such services, including categories of industrial users; (B) criteria against which to determine the adequacy of charges imposed on classes and categories of users reflecting all factors that influence the cost of waste treatment, including strength, volume, and delivery flow rate characteristics of waste; and (C) model systems and rates of users charges typical of various treatment works serving municipal-industrial communities.

(3) Approval by the Administrator of a grant to an interstate agency established by interstate compact for any treatment works shall satisfy any other requirement that such works be authorized by Act of Congress.

(4) A system of charges which meets the requirements of clause (A) of paragraph (1) of this subsection may be used based on something other than metering the sewage or water supply flow of residential recipients of waste treatment services, including ad valorem taxes. If the system of charges is based on something other than metering, the Administrator shall require (A) the applicant to

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[1] Public Law 100–4.
SEC. 205. (a) * * *

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(d) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act, except that the amendments made by subsections (a) and (b) shall take effect on the last day of the two-year period beginning on such date of enactment.

establish a system by which the necessary funds will be available for the proper operation and maintenance of the treatment works; and (B) the applicant to establish a procedure under which the residential user will be notified as to that portion of his total payment which will be allocated to the costs of the waste treatment services.

(c) The next to the last sentence of paragraph (5) of subsection (a) of this section shall not apply in any case where a primary, secondary, or advanced waste treatment facility or its related interceptors has received a grant for erection, building, acquisition, alteration, remodeling, improvement, or extension before October 1, 1984, and all segments and phases of such facility and interceptors shall be funded based on a 20-year reserve capacity in the case of such facility and a 20-year reserve capacity in the case of such interceptors, except that, if a grant for such interceptors has been approved prior to the date of enactment of the Municipal Wastewater Treatment Construction Grant Amendments of 1981, such interceptors shall be funded based on the approved reserve capacity not to exceed 40 years.

(d)(1) A grant for the construction of treatment works under this title shall provide that the engineer or engineering firm supervising construction or providing architect engineering services during construction shall continue its relationship to the grant applicant for a period of one year after the completion of construction and initial operation of such treatment works. During such period such engineer or engineering firm shall supervise operation of the treatment works, train operating personnel, and prepare curricula and training material for operating personnel. Costs associated with the implementation of this paragraph shall be eligible for Federal assistance in accordance with this title.

(2) On the date one year after the completion of construction and initial operation of such treatment works, the owner and operator of such treatment works shall certify to the Administrator whether or not such treatment works meet the design specifications and effluent limitations contained in the grant agreement and permit pursuant to section 402 of the Act for such works. If the owner and operator of such treatment works cannot certify that such treatment works meet such design specifications and effluent limitations, any failure to meet such design specifications and effluent limitations shall be corrected in a timely manner, to allow such affirmative certification, at other than Federal expense.

(3) Nothing in this section shall be construed to prohibit a grantee under this title from requiring more assurances, guarantees, or indemnity or other contractual requirements from any party to a contract pertaining to a project assisted under this title, than in those provided under this subsection.

ALLOTMENT

SEC. 205. (a) Sums authorized to be appropriated pursuant to section 207 for each fiscal year beginning after June 30, 1972, and before September 30, 1977, shall be allotted by the Administrator not later than the January 1st immediately preceding the beginning of the fiscal year for which authorized, except that the allotment for fiscal year 1973 shall be made not later than 30 days after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972. Such sums shall be allotted among the States by the Administrator in accordance with regulations promulgated by him, in the ratio that the estimated cost of constructing all needed publicly owned treatment works in each State bears to the estimated cost of construction of all needed publicly owned treatment works in all of the States. For the fiscal years ending June 30, 1973, and June 30, 1974, such ratio shall be determined on the basis of table III of House Public Works Committee Print No. 92-50. For the fiscal year ending June 30, 1975, such ratio shall be determined one-half on the basis of table I of House Public Works Committee Print Numbered 93-28 and one-half on the basis of table II of such print, except that no State shall receive an allotment less than that which it received for the fiscal year ending June 30, 1972, as set forth in table III of such print. Allotments for fiscal years which begin after the fiscal year ending June 30, 1975 shall be made only in accordance with a revised cost estimate made and submitted to Congress in accordance with section 516(b) of this Act and only after such revised cost estimate shall have been approved by law specifically enacted hereafter.

(b)(1) Any sums allotted to a State under subsection (a) shall be available for obligations under section 203 on and after the date of such allotment. Such sums shall continue available for obligation in such State for a period of one year after the close of the fiscal year for which such sums are authorized. Any amounts so allotted which are not obligated by the end of such one-year period shall be immediately reallotted by the Administrator, in accordance with regulations promulgated by him, generally on the basis of the ratio used in making the last allotment of sums under this section. Such reallotted sums shall be added to the last allotments made to the States. Any sum made available to a State by reallotment under this subsection shall be in addition to any funds otherwise allotted to such State for grants under this title during any fiscal year.

(2) Any sums which have been obligated under section 203 and which are released by the payment of the final voucher for the project shall be immediately credited to the State to which such sums were last allotted. Such released sums shall be added to the amounts last allotted to such State and shall be immediately available for obligation in the same manner and to the same extent as such last allotment.

(c)(1) Sums authorized to be appropriated pursuant to section 207 for the fiscal years during the period beginning October 1, 1977, and ending September 30, 1981, shall be allotted for each such year by the Administrator not later than the tenth day which begins after the date of enactment of the Clean Water Act of 1977. Notwithstanding any other provisions of law, sums authorized for the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981, shall be allotted in accordance with table 3 of Committee Print Numbered 95-30 of the Committee on Public Works and Transportation of the House of Representatives.

(2) Sums authorized to be appropriated pursuant to section 207 for the fiscal years 1982, 1983, 1984, and 1985 shall be allotted for each such year by the Administrator not later than the tenth day which begins after the date of enactment of the Municipal

Wastewater Treatment Construction Grant Amendments of 1981. Notwithstanding any other provision of law, sums authorized for the fiscal year ending September 30, 1982, shall be allotted in accordance with table 3 of Committee Print Numbered 95–30 of the Committee on Public Works and Transportation of the House of Representatives. Sums authorized for the fiscal years ending September 30, 1983, September 30, 1984, [and September 30, 1985,] *September 30, 1985, and September 30, 1986,* shall be allotted in accordance with the following table:

States:	*Fiscal years 1983 through 1985*
Alabama	.011398
Alaska	.006101
Arizona	.006885
Arkansas	.006668
California	.072901
Colorado	.008154
Connecticut	.012487
Delaware	.004965
District of Columbia	.004965
Florida	.034407
Georgia	.017234
Hawaii	.007895
Idaho	.004965
Illinois	.046101
Indiana	.024566
Iowa	.013796
Kansas	.009201
Kentucky	.012973
Louisiana	.011205
Maine	.007788
Maryland	.024653
Massachusetts	.034608
Michigan	.043829
Minnesota	.018735
Mississippi	.009184
Missouri	.028257
Montana	.004965
Nebraska	.005214
Nevada	.004965
New Hampshire	.010186
New Jersey	.041654
New Mexico	.004965
New York	.113097
North Carolina	.018396
North Dakota	.004965
Ohio	.057383
Oklahoma	.008235
Oregon	.011515
Pennsylvania	.040377
Rhode Island	.006750
South Carolina	.010442
South Dakota	.004965
Tennessee	.014807
Texas	.038726
Utah	.005371
Vermont	.004965
Virginia	.020861
Washington	.017726
West Virginia	.015890
Wisconsin	.027557
Wyoming	.004965
Samoa	.000915
Guam	[illegible]

Northern Marianas	.000425
Puerto Rico	.013295
Pacific Trust Territories	.001305
Virgin Islands	.000531
United States Totals	.999996

(3) Fiscal Years 1987–1990.—Sums authorized to be appropriated pursuant to section 207 for the fiscal years 1987, 1988, 1989, and 1990 shall be allotted for each such year by the Administrator not later than the 10th day which begins after the date of the enactment of this paragraph. Sums authorized for such fiscal years shall be allotted in accordance with the following table:

States:	
Alabama	*.011309*
Alaska	*.006053*
Arizona	*.006831*
Arkansas	*.006616*
California	*.072333*
Colorado	*.008090*
Connecticut	*.012390*
Delaware	*.004965*
District of Columbia	*.004965*
Florida	*.034139*
Georgia	*.017100*
Hawaii	*.007833*
Idaho	*.004965*
Illinois	*.045741*
Indiana	*.024374*
Iowa	*.013688*
Kansas	*.009129*
Kentucky	*.012872*
Louisiana	*.011118*
Maine	*.007829*
Maryland	*.024461*
Massachusetts	*.034338*
Michigan	*.043487*
Minnesota	*.018589*
Mississippi	*.009112*
Missouri	*.028037*
Montana	*.004965*
Nebraska	*.005173*
Nevada	*.004965*
New Hampshire	*.010107*
New Jersey	*.041329*
New Mexico	*.004965*
New York	*.111632*
North Carolina	*.018253*
North Dakota	*.004965*
Ohio	*.056936*
Oklahoma	*.008171*
Oregon	*.011425*
Pennsylvania	*.040062*
Rhode Island	*.006791*
South Carolina	*.010361*
South Dakota	*.004965*
Tennessee	*.014692*
Texas	*.046226*
Utah	*.005329*
Vermont	*.004965*
Virginia	*.020698*
Washington	*.017588*
West Virginia	*.015766*
Wisconsin	*.027342*
Wyoming	*.004965*
American Samoa	[illegible]

Guam	*.000657*
Northern Marianas	*.000422*
Puerto Rico	*.013191*
Pacific Trust Territories	*.001295*
Virgin Islands	*.000527*

(d) Sums allotted to the States for a fiscal year shall remain available for obligation for the fiscal year for which authorized and for the period of the next succeeding twelve months. The amount of any allotment not obligated by the end of such twenty-four-month period shall be immediately reallotted by the Administrator on the basis of the same ratio as applicable to sums allotted for the then current fiscal year, except that none of the funds reallotted by the Administrator for fiscal year 1978 and for fiscal years thereafter shall be allotted to any State which failed to obligate any of the funds being reallotted. Any sum made available to a State by reallottment under this subsection shall be in addition to any funds otherwise allotted to such State for grants under this title during any fiscal year.

(e) For the fiscal years 1978, 1979, 1980, 1981, 1982, 1983, 1984, [and 1985,] *1985, 1986, 1987, 1988, 1989, and 1990,* no State shall receive less than one-half of 1 per centum of the total allotment under subsection (c) of this section, except that in the case of Guam, Virgin Islands, American Samoa, and the Trust Territories not more than thirty-three one-hundredths of 1 per centum in the aggregate shall be allotted to all four of these jurisdictions. For the purpose of carrying out this subsection there are authorized to be appropriated, subject to such amounts as are provided in appropriation Acts, not to exceed $75,000,000 for each of fiscal years 1978, 1979, 1980, 1981, 1982, 1983, 1984, [and 1985.] *1985, 1986, 1987, 1988, 1989, and 1990.* If for any fiscal year the amount appropriated under authority of this subsection is less than the amount necessary to carry out this subsection the amount each State receives under this subsection for such year shall bear the same ratio to the amount such State would have received under this subsection in such year if the amount necessary to carry it out had been appropriated as the amount appropriated for such year bears to the amount necessary to carry out this subsection for such year.

(f) Notwithstanding any other provision of this section, sums made available between January 1, 1975, and March 1, 1975, by the Administrator for obligation shall be available for obligation until September 30, 1978.

(g)(1) The Administrator is authorized to reserve each fiscal year not to exceed 2 per centum of the amount authorized under section 207 of this title for purposes of the allotment made to each State under this section on or after October 1, 1977, except in the case of any fiscal year beginning on or after October 1, 1981, and ending before [October 1, 1985,] *October 1, 1994,* in which case the percentage authorized to be reserved shall not exceed 4 per centum, or $400,000, whichever amount is the greater. Sums so reserved shall be made available for making grants to such State under paragraph (2) of this subsection for the same period as sums are available from such allotment under subsection (d) of this section, and any such grant shall be available for obligation only during such period. Any grant made from sums reserved under this subsection which has not been obligated by the end of the period for which available shall be added to the amount last allotted to such State under this section and shall be immediately available for obligation in the same manner and to the same extent as such last allotment. Sums authorized to be reserved by this paragraph shall be in addition to and not in lieu of any other funds which may be authorized to carry out this subsection.

(2) The Administrator is authorized to grant to any State from amounts reserved to such State under this subsection, the reasonable costs of administering any aspects of sections 201, 203, 204, and 212 of this Act the responsibility for administration of which the Administrator has delegated to such State. The Administrator may increase such grant to take into account the reasonable costs of administering an approved program under section 402 or 404, administering a statewide waste treatment management planning program under section 208(b)(4), and managing waste treatment construction grants for small communities.

(h) The Administrator shall set aside from funds authorized for each fiscal year beginning on or after October 1, 1978, [four per centum] *a total (as determined by the Governor of the State) of not less than 4 percent nor more than 7½ percent* of the sums allotted to any State with a rural population of 25 per centum or more of the total population of such State, as determined by the Bureau of the Census. The Administrator may set aside no more than [four per centum] *7½ percent* of the sums allotted to any other State for which the Governor requests such action. Such sums shall be available only for alternatives to conventional sewage treatment works for municipalities having a population of three thousand five hundred or less, or or for the highly dispersed sections of larger municipalities, as defined by the Administrator.

[(i) Not less than one-half of one per centum of funds allotted to a State for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, September 30, 1982, and September 30, 1983, September 30, 1984, and September 30, 1985, under subsection (a) of this section shall be expended only for increasing the Federal share of grants for construction of treatment works utilizing innovative processes and techniques from 75 per centum to 85 per centum pursuant to section 202(a)(2) of this Act. Including the expenditures authorized by the preceding sentence, a total of 2 per centum of the funds allotted to a State for each of the fiscal years ending September 30, 1979, and September 30, 1980, and 3 per centum of the funds allotted to a State for the fiscal year ending September 30, 1981, under subsection (a) of this section shall be expended only for increasing grants for construction of treatment works pursuant to section 202(a)(2) of this Act. Including the expenditures authorized by the first sentence of this subsection, a total (as determined by the Governor of the State) of not less than 4 per centum nor more than 7½ per centum of the funds allotted to such State for any fiscal year beginning after September 30, 1981, under subsection (c) of this section shall be expended only for increasing the Federal share of grants for construction of treatment works pursuant to section 202(a)(2) of this Act.]

(i) SET-ASIDE FOR INNOVATIVE AND ALTERNATIVE PROJECTS.—Not less than 7½ of 1 percent of funds allotted to a State for each of the

fiscal years ending September 30, 1979, through September 30, 1990, under subsection (c) of this section shall be expended only for increasing the Federal share of grants for construction of treatment works utilizing innovative processes and techniques pursuant to section 202(a)(2) of this Act. Including the expenditures authorized by the preceding sentence, a total of 2 percent of the funds allotted to a State for each of the fiscal years ending September 30, 1979, and September 30, 1980, and 3 percent of the funds allotted to a State for the fiscal year ending September 30, 1981, under subsection (c) of this section shall be expended only for increasing grants for construction of treatment works pursuant to section 202(a)(2) of this Act. Including the expenditures authorized by the first sentence of this subsection, a total (as determined by the Governor of the State) of not less than 4 percent nor more than 7½ percent of the funds allotted to such State under subsection (c) of this section for each of the fiscal years ending September 30, 1982, through September 30, 1990, shall be expended only for increasing the Federal share of grants for construction of treatment works pursuant to section 202(a)(2) of this Act.

(j)(1) The Administrator shall reserve each fiscal year not to exceed 1 per centum of the sums allotted and available for obligation to each State under this section for each fiscal year beginning on or after October 1, 1981, or $100,000, whichever amount is the greater.

(2) Such sums shall be used by the Administrator to make grants to the States to carry out water quality management planning, including, but not limited to—

(A) identifying most cost effective and locally acceptable facility and non-point measures to meet and maintain water quality standards;

(B) developing an implementation plan to obtain State and local financial and regulatory commitments to implement measures developed under subparagraph (A);

(C) determining the nature, extent, and causes of water quality problems in various areas of the State and interstate region, and reporting on these annually; and

(D) determining those publicly owned treatment works which should be constructed with assistance under this title, in which areas and in what sequence, taking into account the relative degree of effluent reduction attained, the relative contributions to water quality of other point or nonpoint sources, and the consideration of alternatives to such construction, and implementing section 303(e) of this Act.

(3) In carrying out planning with grants made under paragraph (2) of this subsection, a State shall develop jointly with local, regional, and interstate entities, a plan for carrying out the program and give funding priority to such entities and designated or undesignated public comprehensive planning organizations to carry out the purposes of this subsection. *In giving such priority, the State shall allocate at least 40 percent of the amount granted to such State for a fiscal year under paragraph (2) of this subsection to regional public comprehensive planning organizations in such State and appropriate interstate organizations for the development and implementation of the plan described in this paragraph. In any*

fiscal year for which the Governor, in consultation with such organizations and with the approval of the Administrator, determines that allocation of at least 40 percent of such amount to such organizations will not result in significant participation by such organizations in water quality management planning and not significantly assist in development and implementation of the plan described in this paragraph and achieving the goals of this Act, the allocation to such organization may be less than 40 percent of such amount.

(4) All activities undertaken under this subsection shall be in coordination with other related provisions of this Act.

(5) Nonpoint Source Reservation.—In addition to the sums reserved under paragraph (1), the Administrator shall reserve each fiscal year for each State 1 percent of the sums allotted and available for obligation to such State under this section for each fiscal year beginning on or after October 1, 1986, or $100,000, whichever is greater, for the purpose of carrying out section 319 of this Act. Sums so reserved in a State in any fiscal year for which such State does not request the use of such sums, to the extent such sums exceed $100,000, may be used by such State for other purposes under this title.

(k) The Administrator shall allot to the State of New York from sums authorized to be appropriated for the fiscal year ending September 30, 1982, an amount necessary to pay the entire cost of conveying sewage from the Convention Center of the city of New York to the Newtown sewage treatment plant, Brooklyn-Queens area, New York. The amount allotted under this subsection shall be in addition to and not in lieu of any other amounts authorized to be allotted to such State under this Act.

(l) Marine Estuary Reservation.—

(1) Reservation of funds.—

(A) General rule.—Prior to making allotments among the States under subsection (c) of this section, the Administrator shall reserve funds from sums appropriated pursuant to section 207 for each fiscal year beginning after September 30, 1986.

(B) Fiscal years 1987 and 1988.—For each of fiscal years 1987 and 1988 the reservation shall be 1 percent of the sums appropriated pursuant to section 207 for such fiscal year.

(C) Fiscal years 1989 and 1990.—For each of fiscal years 1989 and 1990 the reservation shall be 1½ percent of the funds appropriated pursuant to section 207 for such fiscal year.

(2) Use of funds.—Of the sums reserved under this subsection, two-thirds shall be available to address water quality problems of marine bays and estuaries subject to lower levels of water quality due to the impacts of discharges from combined storm water and sanitary sewer overflows from adjacent urban complexes, and one-third shall be available for the implementation of section 320 of this Act, relating to the national estuary program.

(3) Period of availability.—Sums reserved under this subsection shall be subject to the period of availability for obligation established by subsection (d) of this section.

(4) Treatment of certain body of water.—For purposes of this section and section 201(n), Newark Bay, New Jersey, and the portion of the Passaic River up to Little Falls, in the vicinity of Beatties Dam, shall be treated as a marine bay and estuary.

(m) Discretionary Deposits Into State Water Pollution Control Revolving Funds.—

(1) From construction grant allotments.—In addition to any amounts deposited in a water pollution control revolving fund established by a State under title VI, upon request of the Governor of such State, the Administrator shall make available to the State for deposit, as capitalization grants, in such fund in any fiscal year beginning after September 30, 1986, such portion of the amounts allotted to such State under this section for such fiscal year as the Governor considers appropriate; except that (A) in fiscal year 1987, such deposit may not exceed 50 percent of the amounts allotted to such State under this section for such fiscal year, and (B) in fiscal year 1988, such deposit may not exceed 75 percent of the amounts allotted to such State under this section for this fiscal year.

(2) Notice requirement.—The Governor of a State may make a request under paragraph (1) for a deposit into the water pollution control revolving fund of such State—

(A) in fiscal year 1987 only if no later than 90 days after the date of the enactment of this subsection, and

(B) in each fiscal year thereafter only if 90 days before the first day of such fiscal year,

the State provides notice of its intent to make such deposit.

(3) Exception.—Sums reserved under section 205(j) of this Act shall not be available for obligation under this subsection.

REIMBURSEMENT AND ADVANCED CONSTRUCTION

Sec. 206. (a) Any publicly owned treatment works in a State on which construction was initiated after June 30, 1986, but before July 1, 1973, which was approved by the appropriate. State water pollution control agency and which the Administrator finds meet requirements of section 8 of this Act in effect at the time of the initiation of construction shall be reimbursed a total amount equal to the difference between the amount of Federal financial assistance, if any, received under such section 8 for such project and 50 per centum of the cost of such project, or 55 per centum of the project cost where the Administrator also determines that such treatment works was constructed in conformity with a comprehensive metropolitan treatment plan as described in section 8(f) of the Federal Water Pollution Control Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972. Nothing in this subsection shall result in any such works receiving Federal grants from all sources in excess of 80 per centum of the cost of such project.

(b) Any publicly owned treatment works constructed with or eligible for Federal financial assistance under this Act in a State between June 30, 1956, and June 30, 1966, which was approved by the State water pollution control agency and which the Administrator finds meets the requirements of section 8 of this Act prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 but which was constructed without assistance under such section 8 or which received such assistance in an amount less than 30 per centum of the cost of such project shall qualify for payments and reimbursement of State or local funds used for such project from sums allocated to such State under this section in an amount which shall not exceed the difference between the amount of such assistance, if any, received for such project and 30 per centum of the cost of such project.

(c) No publicly owned treatment works shall receive any payment or reimbursement under subsection (a) or (b) of this section unless an application for such assistance is filed with the Administrator within the one year period which begins on the date of enactment of the Federal Water Pollution Control Act Amendments of 1972. Any application filed within such one year period may be revised from time to time as may be necessary.

(d) The Administrator shall allocate to each qualified project under subsection (a) of this section each fiscal year for which funds are appropriated under subsection (e) of this section an amount which bears the same ratio to the unpaid balance of the reimbursement due such project as the total of such funds for such year bears to the total unpaid balance of reimbursement due all such approved projects on the date of enactment of such appropriation. The Administrator shall allocate to each qualified project under subsection (b) of this section each fiscal year for which funds are appropriated under subsection (e) of this section an amount which bears the same ratio to the unpaid balance of the reimbursement due such project as the total such funds for such year bears to the total unpaid balance of reimbursement due all such approved projects on the date of enactment of such appropriation.

(e) There is authorized to be appropriated to carry out subsection (a) of this section not to exceed $2,600,000,000 and, to carry out subsection (b) of this section, not to exceed $750,000,000. The authorizations contained in this subsection shall be the sole source of funds for reimbursements authorized by this section.

(f)(1) In any case where a substantial portion of the funds allotted to a State for the current fiscal year under this title have been obligated under section 201(g), or will be so obligated in a timely manner (as determined by the Administrator), and there is construction of any treatment work project without the aid of Federal funds and in accordance with all procedures and all requirements applicable to treatment works projects, except those procedures and requirements which limit construction of projects to those constructed with the aid of previously allotted Federal funds, the Administrator, upon his approval of an application made under this subsection therefor, is authorized to pay the Federal share of the cost of construction of such project when additional funds are allotted to the State under this title if prior to the construction of the project the Administrator approves plans, specifications, and estimates therefor in the same manner as other treatment works projects. The Administrator may not approve an application under this subsection unless an authorization is in effect for the first fiscal year in the period for which the application requests payment and such requested payment for that fiscal year does not exceed the State's expected allotment from such authorization. The Administrator shall not be required to make such requested payment for any fiscal year—

(A) to the extent that such payment would exceed such State's allotment of the amount appropriated for such fiscal year; and

(B) unless such payment is for a project which, on the basis of an approved finding priority list of such State, is eligible to receive such payment based on the allotment and appropriation for such fiscal year.

To the extent that sufficient funds are not appropriated to pay the full Federal share with respect to a project for which obligations under the provisions of this subsection have been made, the Administrator shall reduce the Federal share to such amount less than 75 per centum as such appropriations do provide.

(2) In determining the allotment for any fiscal year this title, any treatment works project constructed in accordance with this section and without the aid of Federal funds shall not be considered completed until an application under the provisions of the subsection with respect to such project has been approved by the Administrator, or the availability of funds from which this project is eligible for reimbursement has expired, whichever first occurs.

AUTHORIZATION

Sec. 207. There is authorized to be appropriated to carry out this time, other than section 206(e), 208 and 209, for the fiscal year ending June 30, 1973, not to exceed $5,000,000,000, for the fiscal year ending June 30, 1974, not to exceed $6,000,000,000, and for the fiscal year ending June 30, 1975, not to exceed $7,000,000,000, and, subject to such amounts as are provided in appropriation Acts for the fiscal year ending September 30, 1977, $1,000,000,000 for the fiscal year ending September 30, 1978, $4,500,000,000 and for the fiscal year ending September 30, 1979, September 30, 1980, not to exceed $5,000,000,000; for the fiscal year ending September 30, 1981, not to exceed $2,548,837,000; and for the fiscal years ending September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985, not to exceed $2,400,000,000 per fiscal year**[**.**]***; and for each of the fiscal years ending September 30, 1986, September 30, 1987, and September 30, 1988, not to exceed $2,400,000,000; and for each of the fiscal years ending September 30, 1989, and September 30, 1990, not to exceed $1,200,000,000.*

AREAWIDE WASTE TREATMENT MANAGEMENT

Sec. 208. (a) For the purpose of encouraging and facilitating the development and implementation of areawide waste treatment management plans—

(1) The Administrator, within ninety days after the date of enactment of this Act and after consultation with appropriate Federal, State, and local authorities, shall by regulation publish guidelines for the identification of those areas, which as a result of urban-industrial concentrations or other factors, have substantial water quality control problems.

(2) The Governor of each State, within sixty days after publication of the guidelines issued pursuant to paragraph (1) of this subsection, shall identify each area within the State which, as a result of urban-industrial concentrations or other factors, has substantial water quality control problems. Not later than one hundred and twenty days following such identification and after consultation with appropriate elected and other officials of local governments having jurisdiction in such areas, the Governor shall designate (A) the boundaries of each such area, and (B) a single representative organization, including elected officials from local governments or their designees, capable of developing effective areawide waste treatment management plans for such area. The Governor may in the same manner at any later time identify any additional area (or modify an existing area) for which he determines areawide waste treatment management to be appropriate, designate the boundaries of such area, and designate an organization capable of developing effective areawide waste treatment management plans for such area.

(3) With respect to any area which, pursuant to the guidelines published under paragraph (1) of this subsection, is located in two or more States, the Governors of the respective States shall consult and cooperate in carrying out the provisions of paragraph (2), with a view toward designating the boundaries of the interstate area having common water quality control problems and for which areawide waste treatment management plans would be most effective, and toward designating, within one hundred and eighty days after publication of guidelines issued pursuant to paragraph (1) of this subsection, of a single representative organization capable of developing effective areawide waste treatment management plans for such area.

(4) If a Governor does not act, either by designating or determining not to make a designation under paragraph (2) of this subsection, within the time required by such paragraph, or if, in the case of an interstate area, the Governors of the States involved do not designate a planning organization within the time required by paragraph (3) of this subsection, the chief elected official of local governments within an area may be agreement designate (A) the boundaries for such an area, and (B) a single representative organization including elected officials from such local governments, or their designees, capable of developing an areawide waste treatment management plan for such area.

(5) Existing regional agencies may be designated under paragraphs (2), (3), and (4) of this subsection.

(6) The State shall act as a planning agency for all portions of such State which are not designated under paragraph (2), (3), or (4) of this subsection.

(7) Designations under this subsection shall be subject to the approval of the Administrator.

(b)(1)(A) Not later than one year after the date of designation of any organization under subsection (a) of this section such organization shall have in operation a continuing areawide waste treatment management planning process consistent with section 201 of this Act. Plans prepared in accordance with this process shall contain alternatives for waste treatment management, and be applicable to all wastes generated within the area involved. The initial plan prepared in accordance with such process shall be certified by the Governor and submitted to the Administrator not later than two years after the planning process is in operation.

(B) For any agency designated after 1975 under subsection (a) of this section and for all portions of a State for which the State is required to act as the planning agency in accordance with subsection (a)(6), the initial plan prepared in accordance with such process shall be certified by the Governor and submitted to the Administrator not later than three years after the receipt of the initial grant award authorized under subsection (f) of this section.

(2) Any plan prepared under such process shall include, but not be limited to—

(A) the identification of treatment works necessary to meet the anticipated municipal and industrial waste treatment needs of the area over a twenty-year period, annually updated (including an analysis of alternative waste treatment systems), including any requirements for the acquisition of land for treatment purposes; the necessary waste water collection and urban storm water runoff systems; and a program to provide the necessary financial arrangements for the development of such treatment works, and an identification of open space and recreation opportunities that can be expected to result from improved water quality, including consideration of potential use of lands associated with treatment works and increased access to water-based recreation;

(B) the establishment of construction priorities for such treatment works and time schedules for the initiation and completion of all treatment works;

(C) the establishment of a regulatory program to—

(i) implement the waste treatment management requirements of section 201(c),

(ii) regulate the location modification of any facilities within such area which result in any dicharge in such area; and

(iii) assure that any industrial or commercial waste discharged into any treatment works in such area meet applicable pretreatment requirements;

(D) the identification of those agencies necessary to construct, operate, and maintain all facilities required by the plan and otherwise to carry out the plan;

(E) the identification of the measures necessary to carry out the plan (including financing), the period of time necessary to carry out the plan, the costs of carrying out the plan within such time, and the economic, social, and environmental impact of carrying out the plan within such time;

(F) a process to (i) identify, if appropriate, agriculturally and silviculturally related nonpoint sources of pollution, including return flows from irrigated agriculture, and their cumulative effects, runoff from manure disposal areas, and from land used for livestock and crop production, and (ii) set forth procedures and methods (including land use requirements) to control to the extent feasible such sources;

(G) a process to (i) identify, if appropriate, mine-related sources of pollution including new, current, and abandoned surface and underground mine runoff, and (ii) set forth procedures and methods (including land use requirements) to control to the extent feasible such sources;

(H) a process to (i) identify construction activity related sources of pollution, and (ii) set forth procedures and methods (including land use requirements) to control to the extent feasible such sources;

(I) a process to (i) identify, if appropriate, salt water intrusion into rivers, lakes, and estuaries resulting from reduction of fresh water flow from any cause, including irrigation, obstruction, ground water extraction, and diversion, and (ii) set forth procedures and methods to control such intrusion to the extent feasible where such procedures and methods are otherwise a part of the waste treatment management plan;

(J) a process to control the disposition of all residual waste generated in such area which could affect water quality; and

(K) a process to control the disposal of pollutants on land or in subsurface excavations within such area to protect ground and surface water quality.

(3) Areawide waste treatment management plans shall be certified annually by the Governor or his designee (or Governors or their designees, where more than one State is involved) as being consistent with applicable basin plans and such areawide waste treatment management plans shall be submitted to the Administrator for his approval.

(4)(A) Whenever the Governor of any State determines (and notifies the Administrator) that consistency with a statewide regulatory program under section 303 so requires, the requirements of clauses (F) through (K) of paragraph (2) of this subsection shall be developed and submitted by the Governor to the Administrator for approval for application to a class or category of activity throughout such State.

(B) Any program submitted under subparagraph (A) of this paragraph which, in whole or in part, is to control the discharge or other placement of dredged or fill material into the navigable waters shall include the following:

(i) A consultation process which includes the State agency with primary jurisdiction over fish and wildlife resources.

(ii) A process to identify and manage the discharge or other placement of dredged or fill material which adversely affects navigable waters, which shall complement and be coordinated with a State program under section 404 conducted pursuant to this Act.

(iii) A process to assure that any activity conducted pursuant to a best management practice will comply with the guidelines established under section 404(b)(1), and sections 307 and 403 of this Act.

(iv) A process to assure that any activity conducted pursuant to a best management practice can be terminated or modified for cause including, but not limited to, the following:

(I) violation of any condition of the best management practice;

(II) change in any activity that requires either a temporary or permanent reduction or elimination of the discharge pursuant to the best management practice.

(v) A process to assure continued coordination with Federal and Federal-State water-related planning and receiving processes, including the National Wetlands Inventory.

(C) If the Governor of a State obtains approval from the Administrator of a statewide regulatory program which meets the requirements of subparagraph (B) of this paragraph and if such State is administering a permit program under section 404 of this Act, no person shall be required to obtain an individual permit pursuant to such section, or to comply with a general permit issued pursuant to such section, with respect to any appropriate activity within such State for which a best management practice has been approved by the Administrator under the program approved by the Administrator pursuant to this paragraph.

(D)(i) Whenever the Administrator determines after public hearing that a State is not administering a program approved under this section in accordance with the requirements of this section, the Administrator shall so notify the State, and if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days, the Administrator shall withdraw approval of such program. The Administrator shall not withdraw approval of any such program unless he shall first have notified the State, and made public, in writing, the reasons for such withdrawal.

(ii) In the case of a State with a program submitted and approved under this paragraph, the Administrator shall withdraw approval of such program under this subparagraph only for a substantial failure of the State to administer its program in accordance with the requirements of this paragraph.

(c)(1) The Governor of each State, in consultation with the planning agency designated under subsection (a) of this section, at the time a plan is submitted to the Administrator, shall designate one or more waste treatment management agencies (which may be an existing or newly created local, regional or State agency or potential subdivision) for each area designated under subsection (a) of this section and submit such designations to the Administrator.

(2) The Administrator shall accept any such designation, unless, within 120 days of such designation, he finds that the designated management agency (or agencies) does not have adequate authority—

(A) to carry out appropriate portions of an areawide waste treatment management plan developed under subsection (b) of this section;

(B) to manage effectively waste treatment works and related facilities serving such area in conformance with any plan required by subsection (b) of this section;

(C) directly or by contract, to design and construct new works, and to operate and maintain new and existing works as required by any plan developed pursuant to subsection (b) of this section;

(D) to accept and utilize grants, or other funds from any source, for waste treatment management purposes;

(E) to raise revenues, including the assessment of waste treatment charges;

(F) to incur short- and long-term indebtedness;

(G) to assure in implementation of an areawide waste treatment management plan that each participating community pays its proportionate share of treatment costs;

(H) to refuse to receive any wastes from any municipality or subdivision thereof, which does not comply with any provisions of an approved plan under this section applicable to such area; and

(I) to accept for treatment industrial wastes.

(d) After a waste treatment management agency having the authority required by subsection (c) has been designated under such subsection for an area and a plan for such area has been approved under subsection (b) of this section, the Administrator shall not make any grant for construction of a publicly owned treatment works under section 201(g)(1) within such area except to such designated agency and for works in conformity with such plan.

(e) No permit under section 402 of this Act shall be issued for any point source which is in conflict with a plan approved pursuant to subsection (b) of this section.

(f)(1) The Administrator shall make grants to any agency designated under subsection (a) of this section for payment of the reasonable costs of developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section.

(2) For the two-year period beginning on the date the first grant is made under paragraph (1) of this subsection to an agency, if such frist grant is made before October 1, 1977, the amount of each such grant to such agency shall be 100 per centum of the costs of developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section, and thereafter the amount granted to such agency shall not exceed 75 per centum of such costs in each succeeding one-year period. In the case of any other grant made to an agency under such paragraph (1) of this subsection, the amount of such grant shall not exceed 75 per centum of the costs of developing and operating a continuing areawide waste treatment management planning process in any year.

(3) Each applicant for a grant under this subsection shall submit to the Administrator for his approval each proposal for which a grant is applied for under this subsection. The Administrator shall act upon such proposal as soon as practicable after it has been submitted, and his approval of that proposal shall be deemed a contractual obligation of the United States for the payment of its contribution to such proposal, subject to such amounts as are provided in appropriation Acts. There is authorized to be appropriated to carry out this subsection not to exceed $50,000,000 for the fiscal year ending June 30, 1973, not to exceed $100,000,000 for the fiscal year ending June 30, 1974, [and] not to exceed $150,000,000 per fiscal year for the fiscal years ending June 30, 1975, September 30, 1977, September 30, 1978, September 30, 1979, and September 30,

1980, [and] not to exceed $100,000,000 per fiscal year for the fiscal years ending September 30, 1981, and September 30, 1982, *and such sums as may be necessary for fiscal years 1983 through 1990.*

(g) The Administrator is authorized, upon request of the Governor or the designated planning agency, and without reimbursement, to consult with, and provide technical assistance to, any agency designated under subsection (a) of this section in the development of areawide waste treatment management plans under subsection (b) of this section.

(h)(1) The Secretary of the Army, acting through the Chief of Engineers, in cooperation with the Administrator is authorized and directed, upon request of the Governor or the designated planning organization, to consult with, and provide technical assistance to, any agency designed under subsection (a) of this section in developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section.

(2) There is authorized to be appropriated to the Secretary of the Army, to carry out this subsection, not to exceed $50,000,000 per fiscal year for the fiscal years ending June 30, 1973, and June 30, 1974.

(i)(1) The Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, shall, upon request of the Governor of a State, and without reimbursement, provide technical assistance to such State in developing a statewide program for submission to the Administrator under subsection (b)(4)(B) of this section and in implementing such program after its approval.

(2) There is authorized to be appropriated to the Secretary of the Interior $6,000,000 to complete the National Wetlands Inventory of the United States, by December 31, 1981, and to provide information from such Inventory to States as it becomes available to assist such States in the development and operation of programs under this Act.

(j)(1) The Secretary of Agriculture, with the concurrence of the Administrator, and acting through the Soil Conservation Service and such other agencies of the Department of Agriculture as the Secretary may designate, is authorized and directed to establish and administer a program to enter into contracts, subject to such amounts as are provided in advance by appropriation acts, of not less than five years nor more than ten years with owners and operators having control of rural land for the purpose of installing and maintaining measures incorporating best management practices to control nonpoint source pollution for improved water quality in those States or areas for which the Administrator has approved a plan under subsection (b) of this section where the practices to which the contracts apply are certified by the management agency designated under subsection (c)(1) of this section to be consistent with such plans and will result in improved water quality. Such contracts may be entered into during the period ending not later than September 31, 1988. Under such contracts the land owner or operator shall agree—

(i) to effectuate a plan approved by a soil conservation district, where one exists, under this section for his farm, ranch, or other land substantially in accordance with the schedule outlined therein unless any requirement thereof is waived or modified by the Secretary;

(ii) to forfeit all rights to further payments or grants under the contract and refund to the United States all payments and grants received thereunder, with interest, upon his violation of the contract at any stage during the time he has control of the land if the Secretary, after considering the recommendations of the soil conservation district, where one exists, and the Administrator, determines that such violation is of such a nature as to warrant termination of the contract, or to make refunds or accept such payment adjustments as the Secretary may deem appropriate if he determines that the violation by the owner or operator does not warrant termination of the contract;

(iii) upon transfer of his right and interest in the farm, ranch, or other land during the contract period to forfeit all rights to further payments or grants under the contract and refund to the United States all payments or grants received thereunder, with interest, unless the transferee of any such land agrees with the Secretary to assume all obligations of the contract;

(iv) not to adopt any practice specified by the Secretary on the advice of the Administrator in the contract as a practice which would tend to defeat the purposes of the contract;

(v) to such additional provisions as the Secretary determines are desirable and includes in the contract to effectuate the purposes of the program or to facilitate the practical administration of the program.

(2) In return for such agreement by the landowner or operator the Secretary shall agree to provide technical assistance and share the cost of carrying out those conservation practices and measures set forth in the contract for which he determines that cost sharing is appropriate and in the public interest and which are approved for cost sharing by the agency designated to implement the plan developed under subsection (b) of this section. The portion of such cost (including labor) to be shared shall be that part which the Secretary determines is necessary and appropriate to effectuate the installation of the water quality management practices and measures under the contract, but not to exceed 50 per centum of the total cost of the measures set forth in the contract; except the Secretary may increase the matching cost share where he determines that (1) the main benefits to be derived from the measures are related to improving offsite water quality, and (2) the matching share requirement would place a burden on the landowner which would probably prevent him from participating in the program.

(3) The Secretary may terminate any contract with a landowner or operator by mutual agreement with the owner or operator if the Secretary determines that such termination would be in the public interest, and may agree to such modification of contracts previously entered into as he may determine to be desirable to carry out the purposes of the program or facilitate the practical administration thereof or to accomplish equitable treatment with respect to other conservation, land use, or water quality programs.

(4) In providing assistance under this subsection the Secretary will give priority to those areas and sources that have the most sig-

nificant effect upon water quality. Additional investigations or plans may be made, where necessary, to supplement approved water quality management plans, in order to determine priorities.

(5) The Secretary shall, where practicable, enter into agreements with soil conservation districts, State soil and water conservation agencies, or State water quality agencies to administer all or part of the program established in this subsection under regulations developed by the Secretary. Such agreements shall provide for the submission of such reports as the Secretary deems necessary, and for payment by the United States of such portion of the costs incurred in the administration of the program as the Secretary may deem appropriate.

(6) The contracts under this subsection shall be entered into only in areas where the management agency designated under subsection (c)(1) of this section assures an adequate level of participation by owners and operators having control of rural land in such areas. Within such areas the local soil conservation district, where one exists, together with the Secretary of Agriculture, will determine the priority of assistance among individual land owners and operators to assure that the most critical water quality problems are addressed.

(7) The Secretary, in consultation with the Administrator and subject to section 304(k) of this Act, shall, not later than September 30, 1978, promulgate regulations for carrying out this subsection and for support and cooperation with other Federal and non-Federal agencies for implementation of this subsection.

(8) This program shall not be used to authorize or finance projects that would otherwise be eligible for assistance under the terms of Public Law 83-566.

(9) There are hereby authorized to be appropriated to the Secretary of Agriculture $200,000,000 for fiscal year 1979, $400,000,000 for fiscal year 1980, $100,000,000 for fiscal year 1981, [and] $100,000,000 for fiscal year 1982, *and such sums as may be necessary for fiscal years 1983 through 1990,* to carry out this subsection. The program authorized under this subsection shall be in addition to, and not in substitution of, other programs in such area authorized by this or any other public law.

BASIN PLANNING

SEC. 209. (a) The President, acting through the Water Resources Council, shall, as soon as practicable, prepare a Level B plan under the Water Resources Planning Act for all basins in the United States. All such plans shall be completed not later than January 1, 1980, except that priority in the preparation of such plans shall be given to those basins and portions thereof which are within those areas designated under paragraphs (2), (3), and (4) of subsection (a) of section 208 of this Act.

(b) The President, acting through the Water Resources Council, shall report annually to Congress on progress being made in carrying out this section. The first such report shall be submitted not later than January 31, 1973.

(c) There is authorized to be appropriated to carry out this section not to exceed $200,000,000.

ANNUAL SURVEY

SEC. 210. The Administrator shall annually make a survey to determine the efficiency of the operation and maintenance of treatment works contructed with grants made under this Act, as compared to the efficiency planned at the time the grant was made. The results of such annual survey shall be included in the report required under section 516(a) of this Act.

SEWAGE COLLECTION SYSTEMS

SEC. 211. (a) No grant shall be made for a sewage collection system under this title unless such grant (1) is for replacement or major rehabilitation of an existing collection system and is necessary to the total integrity and performance of the waste treatment works servicing such community, or (2) is for a new collection system in an existing community with sufficient existing or planned capacity adequately to treat such collected sewage and is consistent with section 201 of this Act.

(b) If the Administrator uses population density as a test for determining the eligiblity of a collector sewer for assistance it shall be only for the purpose of evaluating alternatives and determining the needs for such system in relation to ground or surface water quality impact.

(c) No grant shall be made under this title from funds authorized for any fiscal year during the period beginning October 1, 1977, and ending September 30, [1985,] *1990,* for treatment works for control of pollutant discharges from separate storm sewer systems.

DEFINITIONS

SEC. 212. As used in this title—

(1) The term "construction" means any one or more of the following: preliminary planning to determine the feasibility of treatment works, engineering, architectural, legal, fiscal, or economic investigations or studies, surveys, designs, plans, working drawings, specifications, procedures, field testing of innovative or alternative waste water treatment processes and techniques meeting guidelines promulgated under section 304(d)(3) of this Act, or other necessary actions, erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works, or the inspection or supervision of any of the following items.

(2)(A) The term "treatment works" means any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature to implement section 201 of this Act, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, sewage collection systems, pumping power, and other equipment, and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process (including land use for the storage of treated wastewater in land treatment systems prior to land application) or is used for ultimate disposal of residues resulting from such treatment.

(B) In addition to the definition contained in subparagraph (A) of this paragraph, "treatment works" means any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste, including storm water runoff, or industrial waste, including waste in combined storm water and sanitary sewer systems. Any application for contruction grants which includes wholly or in part such methods or systems shall, in accordance with guidelines published by the Administrator pursuant to subparagraph (C) of this paragraph, contain adequate data and analysis demonstrating such proposal to be, over the life of such works, the most cost efficient alternative to comply with section 301 or 302 of this Act, or the requirements of section 201 of this Act.

(C) For the purposes of subparagraph (B) of this paragraph, the Administrator shall, within one hundred and eighty days after the date of enactment of this title, publish and thereafter revise no less often than annually, guidelines for the evaluation of methods, including cost-effective analysis, described in subparagraph (B) of this paragraph.

(3) The term "replacement" as used in this title means these expenditures for obtaining and installing equipment, accessories, or appurtenances during the useful life of the treatment works necessary to maintain the capacity and performance for which such works are designed and constructed.

LOAN GUARANTEES FOR CONSTRUCTION OF TREATMENT WORKS

SEC. 213. (a) Subject to the conditions of this section and to such terms and conditions as the Administrator determines to be necessary to carry out the purposes of this title, the Administrator is authorized to guarantee, and to make commitments to guarantee, the principal and interest (including interest accruing between the date of default and the date of the payment in full of the guarantee) of any loan, obligation, or participation therein of any State, municipality, or intermunicipal or interstate agency issued directly and exclusively to the Federal Financing Bank to finance that part of the cost of any grant-eligible project for the construction of publicly owned treatment works not paid for with Federal financial assistance under this title (other than this section), which project the Administrator has determined to be eligible for such financial assistance under this title, including, but not limited to, projects eligible for reimbursement under section 206 of this title.

(b) No guarantee, or commitment to make a guarantee, may be made pursuant to this section—

(1) unless the Administrator certifies that the issuing body is unable to obtain on reasonable terms sufficient credit to finance its actual needs without such guarantee; and

(2) unless the Administrator determines that there is a reasonable assurance of repayment of the loan, obligation, or participation therein.

A determination of whether financing is available at reasonable rates shall be made by the Secretary of the Treasury with relationship to the current average yield on outstanding marketable obligations of municipalities of comparable maturity.

(c) The Administrator is authorized to charge reasonable fees for the investigation of an application for a guarantee and for the issuance of a commitment to make a guarantee.

(d) The Administrator, in determining whether there is a reasonable assurance of repayment, may require a commitment which would apply to such repayment. Such commitment may include, but not be limited to, any funds received by such grantee from the amounts appropriated under section 206 of this act.

PUBLIC INFORMATION

SEC. 214. The Administrator shall develop and operate within one year of the date of enactment of this section, a continuing program of public information and education or recycling and reuse of wastewater (including sludge), the use of land treatment, and methods for the reduction of wastewater volume.

REQUIREMENTS FOR AMERICAN MATERIALS

SEC. 215. Notwithstanding any other provision of law, no grant for which application is made after February 1, 1978, shall be made under this title for any treatment works unless only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States, and only such manufactured articles, materials, and supplies as have been manufactured in the United States, substantially all from articles, materials, or supplies mined, produced, or manufactured, as the case may be, in the United States will be used in such treatment works. This section shall not apply in any case where the Administrator determines, based upon those factors the Administrator deems relevant, including the available resources of the agency, it to be inconsistent with the public interest (including multilateral government procurement agreements) or the cost to be unreasonable, or if articles, materials, or supplies of the class or kind to be used or the articles, materials, or supplies from which they are manufactured are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

DETERMINATION OF PRIORITY

SEC. 216. Notwithstanding any other provision of this Act, the determination of the priority to be given each category of projects for construction of publicly owned treatment works within each State shall be made solely by that State, except that if the Administrator, after a public hearing, determines that a specific project will not result in compliance with the enforceable requirements of this Act, such project shall be removed from the State's priority list and such State shall submit a revised priority list. These categories shall include, but not be limited to (A) secondary treatment, (B) more stringent treatment, (C) infiltration-in-flow correction, (D) major sewer system rehabilitation, (E) new collector sewers and appurtenances, (F) new interceptors and appurtenances, and (G) correction of combined sewer overflows. Not less than 25 per centum of funds allocated to a State in any fiscal year under this title for construction of publicly owned treatment works in such State shall be obligated for those types of projects referred to in clauses (D), (E), (F), and (G) of this section if such projects are on such State's priority list for that year and are otherwise eligible for funding in that fiscal year. It is the policy of Congress that projects for wastewater treatment and management undertaken with Federal financial assistance under this Act by any State, municipality, or intermunicipal or interstate agency shall be projects which, in the estimation of the State, are designed to achieve optimum water quality management, consistent with the public health and water quality goals and requirements of the Act.

COST-EFFECTIVENESS GUIDELINES

SEC. 217. Any guidelines for cost-effectiveness analysis published by the Administrator under this title shall provide for the identification and selection of cost effective alternatives to comply with the objective and goals of this Act and sections 201(b), 201(d), 201(g)(2)(A), and 301(b)(2)(B) of this Act.

COST EFFECTIVENESS

SEC. 218. (a) It is the policy of Congress that a project for waste treatment and management undertaken with Federal financial assistance under this Act by any State, municipality, or intermunicipal or interstate agency shall be considered as an overall waste treatment system for waste treatment and management, and shall be that system which constitutes the most economical and cost-effective combination of devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature to implement section 201 of this Act, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, sewage collection systems, pumping power, and other equipment, and their appurtenances; extension, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process (including land use for the storage of treated wastewater in land treatment systems prior to land application) or which is used for ultimate disposal of residues resulting from such treatment; water efficiency measures and devices; and any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste, including storm water runoff, or industrial waste, including waste in combined storm water and sanitary sewer systems; to meet the requirements of this Act.

(b) In accordance with the policy set forth in subsection (a) of this section, before the Administrator approves any grant to any State, municipality, or intermunicipal or interstate agency for the erection, building, acquisition, alteration, remodeling, improvement, or extension of any treatment works the Administrator shall determine that the facilities plan of which such treatment works are a part constitutes the most economical and cost-effective combination of treatment works over the life of the project to meet the requirements of this Act, including, but not limited to, consideration of construction costs, operation, maintenance, and replacement costs.

(c) In furtherance of the policy set forth in subsection (a) of this section, the Administrator shall require value engineering review in connection with any treatment works, prior to approval of any grant for the erection, building, acquisition, alteration, remodeling, improvement, or extension of such treatment works, in any case in which the cost of such erection, building, acquisition, alteration, remodeling, improvement, or extension is projected to be in excess of $10,000,000. For purposes of this subsection, the term "value engineering review" means a specialized cost control technique which uses a systematic and creative approach to identify and to focus on unnecessarily high cost in a project in order to arrive at a cost saving without sacrificing the reliability or efficiency of the project.

(d) This section applies to projects for waste treatment and management for which no treatment works including a facilities plan for such project have received Federal financial assistance for the preparation of construction plans and specifications under this Act before the date of enactment of this section.

STATE CERTIFICATION OF PROJECTS

SEC. 219. Whenever the Governor of a State which has been delegated sufficient authority to administer the construction grant program under this title in that State certifies to the Administrator that a grant application meets applicable requirements of Federal and State law for assistance under this title, the Administrator shall approve or disapprove such application within 45 days of the date of receipt of such application. If the Administrator does not approve or disapprove such application within 45 days of receipt, the application shall be deemed approved. If the Administrator disapproves such application the Administrator shall state in writing the reasons for such disapproval. Any grant approved or deemed approved under this section shall be subject to amounts provided in appropriation Acts.

TITLE III—STANDARDS AND ENFORCEMENT

EFFLUENT LIMITATIONS

SEC. 301. (a) Except as in compliance with this section and sections 302, 306, 307, 318, 402, and 404 of this Act, the discharge of any polutant by any person shall be unlawful.

(b) In order to carry out the objective of this Act there shall be achieved—

(1)(A) not later than July, 1, 1977, effluent limitations for point sources, other than publicly owned treatment works, (i) which shall require the application of the best practicable control technology currently available as defined by the Administrator pursuant to section 304(b) of this Act, or (ii) in the case of a discharge into a publicly owned treatment works which meets the requirements of subparagraph (B) of this paragraph, which shall require compliance with any applicable pretreatment requirements and any requirements under section 307 of this Act; and

(B) for publicly owned treatment works in existence on July 1, 1977, or approved pursuant to section 203 of this Act prior to June 30, 1974 (for which construction must be completed within four years of approval), effluent limitations based upon secondary treatment as defined by the Administrator pursuant to section 304(d)(1) of this Act; or,

(C) not later than July 1, 1977, any more stringent limitation, including those necessary to meet water quality standards, treatment standards, or schedule of compliance, established pursuant to any State law or regulations (under authority preserved by section 510), or any other Federal law or regulation, or required to implement any applicable water quality standard established pursuant to this Act.

(2)(A) for pollutants identified in subparagraphs (C), (D), and (F) of this paragraph effluent limitations for categories and classes of point sources, other than publicly owned treatment works, which (i) shall require application of the best available technology economically achievable for such category or class, which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants, as determined in accordance with regulations issued by the Administrator pursuant to section 304(b)(2) of this Act, which such effluent limitations shall require the elimination of discharges of all pollutants if the Administrator finds, on the basis of information available to him (including information developed pursuant to section 315), that such elimination is technologically and economically achievable for category or class of point sources as determined in accordance with regulations issued by the Administrator pursuant to section 304(b)(2) of this Act or (ii) in the case of the introduction of a pollutant into a publicly owned treatment works which meets the requirements of subparagraph (B) of this paragraph, shall require compliance with any applicable pretreatment requirements and any other requirement under section 307 of this Act;

(B) Reserved.

(C) [not later than July 1, 1984,] with respect to all toxic pollutants referred to in table 1 of Committee Print Numbered 95-30 of the Committee on Public Works and Transportation of the House of Representatives compliance with effluent limitations in accordance with subparagraph (A) of this paragraph *as expeditiously as practicable but in no case later than three years after the date such limitations are promulgated under section 304(b), and in no case later than March 31, 1989;*

(D) for all toxic pollutants listed under paragraph (1) of subsection (a) of section 307 of this Act which are not referred to in subparagraph (C) of this paragraph compliance with effluent limitation in accordance with subparagraph (A) of this paragraph [not later than three years after the date such limitations are established;] *as expeditiously as practicable but in no case later than three years after the date such limitations are promulgated under section 304(b), and in no case later than March 31, 1989;*

(E) [not later than July 1, 1984,] *as expeditiously as practicable but in no case later than three years after the date such limitations are promulgated under section 304(b), and in no case later than March 31, 1989, compliance with* effluent limitations for categories and classes of point sources, other than publicly owned treatment works, which in the case of pollutants identified pursuant to section 304(a)(4) of this Act shall require application of the best conventional pollutant control technology as determined in accordance with regulations issued by the Administrator pursuant to section 304(b)(4) of this Act; and

(F) for all pollutants (other than those subject to subparagraphs (C), (D), or (E) of this paragraph) compliance with effluent limitations in accordance with subparagraph (A) of this paragraph [not] *as expeditiously as practicable but in no case* later than 3 years after the date such limitations are established, [or not later than July 1, 1984, whichever is later, but in no case later than July 1, 1987.] *and in no case later than March 31, 1989.*

(3)(A) for effluent limitations under paragraph (1)(A)(i) of this subsection promulgated after January 1, 1982, and requiring a level of control substantially greater or based on fundamentally different control technology than under permits for an industrial category issued before such date, compliance as expeditiously as practicable but in no case later than three years after the date such limitations are promulgated under section 304(b), and in no case later than March 31, 1989; and

(B) for any effluent limitation in accordance with paragraph (1)(A)(i), (2)(A)(i), or (2)(E) of this subsection established only on the basis of section 402(a)(1) in a permit issued after enactment of the Water Quality Act of 1987, compliance as expeditiously as practicable but in no case later than three years after the date such limitations are established, and in no case later than March 31, 1989.

(c) The Administrator may modify the requirements of subsection (b)(2(A) of this section with respect to any point source for which a permit application is filed after July 1, 1977, upon a showing by the owner or operator of such point source satisfactory to the Administrator that such modified requirements (1) will represent the maximum use of technology within the economic capability of the owner or operator; and (2) will result in reasonable further progress toward the elimination of the discharge of pollutants.

(d) Any effluent limitation required by paragraph (2) of subsection (b) of this section shall be reviewed at least every five years and, if appropriate, revised pursuant to the procedure established under such paragraph.

(e) Effluent limitations established pursuant to this section or section 302 of this Act shall be applied to all point sources of discharge of pollutants in accordance with the provisions of this Act.

(f) Notwithstanding any other provisions of this Act it shall be unlawful to discharge any radiological, chemical, or biological warfare agent or high-level radioactive waste into the navigable waters.

[(g)(1) The Administrator, with the concurrence of the State, shall modify the requirements of subsection (b)(2)(A) of this section with respect to the discharge of any pollutant (other than pollutants identified pursuant to section 304(a)(4) of this Act, toxic pollutants subject to section 307(a) of this Act, and the thermal component of discharges) from any point source upon a showing by the owner or operator of such point source satisfactory to the Administrator that—]

(g) MODIFICATIONS FOR CERTAIN NONCONVENTIONAL POLLUTANTS.—

(1) GENERAL AUTHORITY.—The Administrator, with the concurrence of the State, may modify the requirements of subsection (b)(2)(A) of this section with respect to the discharge from any point source of ammonia, chlorine, color, iron, and total phenols (4AAP) (when determined by the Administrator to be a pollutant covered by subsection (b)(2)(F)) and any other pollutant which the Administrator lists under paragraph (4) of this subsection.

(2) REQUIREMENTS FOR GRANTING MODIFICATIONS.—A modification under this subsection shall be granted only upon a showing by the owner or operator of a point source satisfactory to the Administrator that—

(A) Such modified requirements will result at a minimum in compliance with the requirements of subsection (b)(1)(A) or (C) of this section, whichever is applicable;

(B) such modified requirements will not result in any additional requirements on any other point or nonpoint source; and

(C) such modification will not interfere with the attainment or maintenance of that water quality which shall assure protection of public water supplies, and the protection and propagation of a balanced population of shellfish, fish, and wildlife, and allow recreational activities, in and on the water and such modification will not result in the discharge of pollutants in quantities which may reasonably be anticipated to pose an unacceptable risk to human health or the environment because of bioaccumulation, persistency in the environment, acute toxicity, chronic toxicity (including carcinogenicity, mutagenicity or teratogenicity), or synergistic propensities.

[(2)] *(3) LIMITATION ON AUTHORITY TO APPLY FOR SUBSECTION (c) MODIFICATION.*—If an owner or operator of a point source applies for a modification under this subsection with respect to the discharge of any pollutant, such owner or operator shall be eligible to apply for modification under subsection (c) of this section with respect to such pollutant only during the same time-period as he is eligible to apply for a modification under this subsection.

(4) PROCEDURES FOR LISTING ADDITIONAL POLLUTANTS.—

(A) GENERAL AUTHORITY.—Upon petition of any person, the Administrator may add any pollutant to the list of pollutants for which modification under this section is authorized (except for pollutants identified pursuant to section 304(a)(4) of this Act, toxic pollutants subject to section

307(a) of this Act, and the thermal component of discharges) in accordance with the provisions of this paragraph.

(B) REQUIREMENTS FOR LISTING.—

(i) SUFFICIENT INFORMATION.—The person petitioning for listing of an additional pollutant under this subsection shall submit to the Administrator sufficient information to make the determinations required by this subparagraph.

(ii) TOXIC CRITERIA DETERMINATION.—The Administrator shall determine whether or not the pollutant meets the criteria for listing as a toxic pollutant under section 307(a) of this Act.

(iii) LISTING AS TOXIC POLLUTANT.—If the Administrator determines that the pollutant meets the criteria for listing as a toxic pollutant under section 307(a), the Administrator shall list the pollutant as a toxic pollutant under section 307(a).

(iv) NONCONVENTIONAL CRITERIA DETERMINATION.—If the Administrator determines that the pollutant does not meet the criteria for listing as a toxic pollutant under such section and determines that adequate test methods and sufficient data are available to make the determinations required by paragraph (2) of this subsection with respect to the pollutant, the Administrator shall add the pollutant to the list of pollutants specified in paragraph (1) of this subsection for which modifications are authorized under this subsection.

(C) REQUIREMENTS FOR FILING OF PETITIONS.—A petition for listing of a pollutant under this paragraph—

(i) must be filed not later than 270 days after the date of promulgation of an applicable effluent guideline under section 304;

(ii) may be filed before promulgation of such guideline; and

(iii) may be filed with an application for a modification under paragraph (1) with respect to the discharge of such pollutant.

(D) DEADLINE FOR APPROVAL OF PETITION.—A decision to add a pollutant to the list of pollutants for which modifications under this subsection are authorized must be made within 270 days after the date of promulgation of an applicable effluent guideline under section 304.

(E) BURDEN OF PROOF.—The burden of proof for making the determinations under subparagraph (B) shall be on the petitioner.

(5) REMOVAL OF POLLUTANTS.—The Administrator may remove any pollutant from the list of pollutants for which modifications are authorized under this subsection if the Administrator determines that adequate test methods and sufficient data are no longer available for determining whether or

not modifications may be granted with respect to such pollutant under paragraph (2) of this subsection.[2]

(h) The Administrator, with the concurrence of the State, may issue a permit under section 402 which modifies the requirements of subsection (b)(1)(B) of this section with respect to the discharge of any pollutant from a publicly owned treatment works into marine waters, if the applicant demonstrates to the satisfaction of the Administrator that—

(1) there is an applicable water quality standard specific to the pollutant for which the modification is requested, which has been identified under section 304(a)(6) of this Act;

(2) [such modified requirements will not interfere] *the discharge of pollutants in accordance with such modified requirements will not interfere, alone or in combination with pollutants from other sources,*[3] with the attainment or maintenance of that water quality which assures protection of public water supplies and the protection and propagation of a balanced, indigenous population of shellfish, fish and wildlife, and allows recreational activities, in and on the water;

(3) the applicant has established a system for monitoring the impact of such discharge on a representative sample of aquatic biota, to the extent practicable *and the scope of such monitoring is limited to include only those scientific investigations which are necessary to study the effects of the proposed discharge;*[4]

(4) such modified requirements will not result in any additional requirements on any other point or nonpoint source;

(5) all applicable pretreatment requirements for sources introducing waste into such treatment works will be enforced;

(6) in the case of any treatment works serving a population of 50,000 or more, with respect to any toxic pollutant introduced into such works by an industrial discharger for which pollutant

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[2] Public Law 100-4.

SEC. 302(a) * * *

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(e) APPLICATION.—

(1) GENERAL RULE.—Except as provided in paragraph (2), the amendments made by this section shall apply to all requests for modifications under section 301(g) of the Federal Water Pollution Control Act pending on the date of the enactment of this Act and shall not have the effect of extending the deadline established in section 301(j)(1)(B) of such Act.

(2) EXCEPTION.—The amendments made by this section shall not affect any application for a modification with respect to the discharge of ammonia, chlorine, color, iron, or total phenols (4AAP) under section 301(g) of the Federal Water Pollution Control Act pending on the date of the enactment of this Act; except that the Administrator must approve or disapprove such application not later than 365 days after the date of such enactment.

[3] Public Law 100-4.

SEC. 303(a) * * *

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(g) GRANDFATHER OF CERTAIN APPLICANTS.—The amendments made by subsections (a), (c), (d), and (e) of this section shall not apply to an application for a permit under section 301(h) of the Federal Water Pollution Control Act which has been tentatively or finally approved by the Administrator before the date of the enactment of this Act; except that such amendments shall apply to all renewals of such permits after such date of enactment.

[4] Public Law 100-4.

SEC. 303(a) * * *

(b)(1) * * *

(2) LIMITATION ON APPLICABILITY.—The amendment made by subsection (b) shall only apply to modifications and renewals of modifications which are tentatively or finally approved after the date of the enactment of this Act.

there is no applicable pretreatment requirement in effect, sources introducing waste into such works are in compliance with all applicable pretreatment requirements, the applicant will enforce such requirements, and the applicant has in effect a pretreatment program which, in combination with the treatment of discharges from such works, removes the same amount of such pollutant as would be removed if such works were to apply secondary treatment to discharges and if such works had no pretreatment program with respect to such pollutant; [5]

[(6)**]** *(7)* to the extent practicable, the applicant has established a schedule of activities designed to eliminate the entrance of toxic pollutants from nonindustrial sources into such treatment works;

[(7)**]** *(8)* there will be no new or substantially increased discharges from the point source of the pollutant to which the modification applies above that volume of discharge specified in the permit**[**.**]***;*

(9) the applicant at the time such modification becomes effective will be discharging effluent which has received at least primary or equivalent treatment and which meets the criteria established under section 304(a)(1) of this Act after initial mixing in the waters surrounding or adjacent to the point at which such effluent is discharged. [5]

For the purpose of this subsection the phrase "the discharge of any pollutant into marine waters" refers to a discharge into deep waters of the territorial seas or the waters of the contiguous zone, or into saline estuarine waters where there is strong tidal movement and other hydrological and geological characteristics which the Administrator determines necessary to allow compliance with paragraph (2) of this subsection, and section 101(a)(2) of this Act. A municipality which applies secondary treatment shall be eligible to receive a permit pursuant to this subsection which modifies the requirements of subsection (b)(1)(B) of this section with respect to the discharge of any pollutant from any threatment works owned by such municipality into marine waters. No permit issued under this subsection shall authorize the discharge of sewage sludge into marine waters. *For the purposes of paragraph (9), "primary or equivalent treatment" means treatment by screening, sedimentation, and skimming adequate to remove at least 30 percent of the biological oxygen demanding material and of the suspended solids in the treatment works influent, and disinfection, where appropriate. In order for a permit to be issued under this subseciton for the discharge of a pollutant into marine waters, such marine waters must exhibit characteristics assuring that water providing dilution does not contain significant amounts of previously discharged effluent from such treatment works. No permit issued under this subsection*

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[5] Public Law 100-4.

Sec. 303(a) * * *

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(g) Grandfather of Certain Applicants.—The amendments made by subsections (a), (c), (d), and (e) of this section shall not apply to an application for a permit under section 301(h) of the Federal Water Pollution Control Act which has been tentatively or finally approved by the Administrator before the date of the enactment of this Act; except that such amendments shall apply to all renewals of such permits after such date of enactment.

shall authorize the discharge of any pollutant into saline estuarine waters which at the time of application do not support a balanced indigenous population of shellfish, fish and wildlife, or allow recreation in and on the waters or which exhibit ambient water quality below applicable water quality standards adopted for the protection of public water supplies, shellfish, fish and wildlife or recreational activities or such other standards necessary to assure support and protection of such uses. The prohibition contained in the preceding sentence shall apply without regard to the presence or absence of a causal relationship between such characteristics and the applicant's current or proposed discharge. Notwithstanding any other provisions of this subsection, no permit may be issued under this subsection for discharge of a pollutant into the New York Bight Apex consisting of the ocean waters of the Atlantic Ocean westward of 73 degrees 30 minutes west longitude and northward of 40 degrees 10 minutes north latitude.[6]

(i)(1) Where construction is required in order for a planned or existing publicly owned treatment works to achieve limitations under subsection (b)(1)(B) or (b)(1)(C) of this section, but (A) construction cannot be completed within the time required in such subsection, or (B) the United States has failed to make financial assistance under this Act available in time to achieve such limitations by the time specified in such subsection, the owner or operator of such treatment works may request the Administrator (or if appropriate the State) to issue a permit pursuant to section 402 of this Act or to modify a permit issued pursuant to that section to extend such time for compliance. Any such request shall be filed with the Administrator (or if appropriate the State) within 180 days after the date of enactment [of this subsection.] *of the Water Quality Act of 1987.*[7] The Administrator (or if appropriate the State) may grant such request and issue or modify such a permit, which shall contain a schedule of compliance for the publicly owned treatment works based on the earliest date by which such financial assistance will be available from the United States and construction can be completed, but in no event later than July 1, 1988,[8] and shall contain such other terms and conditions, including those necessary to carry out subsection (b) through (g) of section 201 of this Act, section 397 of this Act, and such interim effluent limitations applicable to that treatment works as the Administrator determines are necessary to carry out the provisions of this Act.

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[6] Public Law 100–4.
SEC. 303(a) * * *

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(g) GRANDFATHER OF CERTAIN APPLICANTS.—The amendments made by subsections (a), (c), (d), and (e) of this section shall not apply to an application for a permit under section 301(h) of the Federal Water Pollution Control Act which has been tentatively or finally approved by the Administrator before the date of the enactment of this Act; except that such amendments shall apply to all renewals of such permits after such date of enactment.

[7] Section 304, Public Law 100–4. * * * (b) APPLICABILITY.—The amendment made by subsection (a) shall not apply to those treatment works which are subject to a compliance schedule established before the date of the enactment of this Act by a court order or a final administrative order.

[8] Section 21(a), Public Law 97–117. . . . The amendment made by this subsection shall not be interpreted or applied to extend the date for compliance with section 302(b)(1) (B) or (C) of the Federal Water Pollution Control Act beyond schedules for compliance in effect as of the date of enactment of this Act, except in cases where reductions in the amount of financial assistance under this Act or changed conditions affecting the rate of construction beyond the control of the owner or operator will make it impossible to complete construction by July 1, 1983.

(2)(A) Where a point source (other than a publicly owned treatment works) will not achieve the requirements of subsections (b)(1)(A) and (b)(1)(C) of this section and—

(i) if a permit issued prior to July 1, 1977, to such point source is based upon a discharge into a publicly owned treatment works; or

(ii) if such point source (other than a publicly owned treatment works) had before July 1, 1977, a contract (enforceable against such point source) to discharge into a publicly owned treatment works; or

(iii) if either an application made before July 1, 1977, for a construction grant under this Act for a publicly owned treatment works, or engineering or architectural plans or working drawings made before July 1, 1977, for a publicly owned treatment works, show that such point source was to discharge into such publicly owned treatment works.

and such publicly owned treatment works is presently unable to accept such discharge without construction, and in the case of a discharge to an existing publicly owned treatment works, such treatment works has an extension pursuant to paragraph (1) of this subsection, the owner or operator of such point source may request the Administrator (or if appropriate the State) to issue or modify such a permit pursuant to such section 402 to extend such time for compliance. Any such request shall be filed with the Administrator (or if appropriate the State) within 80 days after the date of enactment of this subsection or the filing of a request by the appropriate publicly owned treatment works under paragraph (1) of this subsection, whichever is later. If the Administrator (or if appropriate the State) finds that the owner or operator of such point source has acted in good faith, he may grant such request and issue or modify such a permit, which shall contain a schedule of compliance for the point source to achieve the requirements of subsections (b)(1) (A) and (C) of this section and shall contain such other terms and conditions, including pretreatment and interim effuent limitations and water conservation requirements applicable to that point source, as the Administrator determines are necessary to carry out the provisions of the Act.

(B) No time modification granted by the Administrator (or if appropriate the State) pursuant to paragraph (2)(A) of this subsection shall extend beyond the earliest date practicable for compliance or beyond the date of any extensions granted to the appropriate publicly owned treatment works pursuant to paragraph (1) of this subsection, but in no event shall it extend beyond July 1, 1988; and no such time modification shall be granted unless (i) the publicly owned treatment works will be in operation and available to the point source before July 1, 1988; [9] and will meet the requirements to subsections (b)(1) (B) and (C) of this section after receiving the discharge from that point source; and (ii) the point source and the publicly owned treatment works have entered into an enforceable contract requiring the point source to discharge into the publicly owned treatment works the owner or operator of such point source to pay the costs required under section 204 of this Act, and the publicly owned treatment works to accept the discharge from the point source; and (iii) the permit for such point source requires point source to meet all requirements under section 307 (a) and (b) during the period of such time modification.

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[9] Section 21 (a), Public Law 97-117. . . . The amendment made by this subsection shall not be interpreted or applied to extend the date for compliance with section 301(b)(1) (B) or (C) of the Federal Water Pollution Control Act beyond schedules for compliance in effect as of the date of enactment of this Act, except in cases where reductions in the amount of financial assistance under this Act or changed conditions affecting the rate of construction beyond the control of the owner or operator will make it impossible to complete construction by July 1, 1983.

(j)(1) Any application filed under this section for a modification of the provisions of—

(A) subsection (b)(1)(B) under subsection (h) of this section shall be filed not later than the 365th day which begins after the date of enactment of the Municipal Wastewater Treatment Construction Grant Amendments of 1981,[10] *except that a publicly owned treatment works which prior to December 31, 1982, had a contractual arrangement to use a portion of the capacity of an ocean outfall operated by another publicly owned treatment works which has applied for or received modification under subsection (h), may apply for a modification of subsection (h) in its own right not later than 30 days after the date of the enactment of the Water Quality Act of 1987;*

(B) subsection (b)(2)(A) as it applies to pollutants identified in subsection (b)(2)(F) shall be filed not later than 270 days after the date of promulgation of an applicable effluent guideline under section 304 or not later than 270 days after the date of enactment of the Clean Water Act of 1977, whichever is later.

(2) [Any] *Subject to paragraph (3) of this section, any* application for a modification filed under subsection (g) of this section shall not operate to stay any requirement under this Act, unless in the judgment of the Administrator such a stay or the modification sought will not result in the discharge of pollutants in quantities which may reasonably be anticipated to pose an unacceptable risk to human health or the environment because of bioaccumulation, persistency in the environment, acute toxicity, chronic toxicity (including carcinogenicity, mutagenicity or teratogenicity), or synergistic propensities, and that there is a substantial likelihood that the applicant will succeed on the merits of such application. In the case of an application filed under subsection (g) of this section, the Administrator may condition any stay granted under this paragraph on requiring the filing of a bond or other appropriate security to assure timely compliance with the requirements from which a modification is sought.

(3) COMPLIANCE REQUIREMENTS UNDER SUBSECTION (g).—

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[10] Public law 97-117.

SEC. 22(a) * * *

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(e) The amendments made by this section shall take effect on the date of enactment of this Act, except that no applicant, other than the city of Avalon, California, who applies after the date of enactment of this Act for a permit pursuant to subsection (h) of section 301 of the Federal Water Pollution Control Act which modifies the requirements of subsection (b)(1)(B) of section 301 of such Act shall receive such permit during the one-year period which begins on the date of enactment of this Act.

(A) EFFECT OF FILING.—An application for a modification under subsection (g) and a petition for listing of a pollutant as a pollutant for which modifications are authorized under such subsection shall not stay the requirement that the person seeking such modification or listing comply with effluent limitations under this Act for all pollutants not the subject of such application or petition.

(B) EFFECT OF DISAPPROVAL.—Disapproval of an application for a modification under subsection (g) shall not stay the requirement that the person seeking such modification comply with all applicable effluent limitations under this Act.

(4) DEADLINE FOR SUBSECTION (g) DECISION.—An application for a modification with respect to a pollutant filed under subsection (g) must be approved or disapproved not later than 365 days after the date of such filing; except that in any case in which a petition for listing such pollutant as a pollutant for which modifications are authorized under such subsection is approved, such application must be approved or disapproved not later than 365 days after the date of approval of such petition.

(k) In the case of any facility subject to a permit under section 402 which proposes to comply with the requirements of subsection (b)(2)(A) *or (b)(2)(E)* of this section by replacing existing production capacity with an innovative production process which will result in an effluent reduction significantly greater than that required by the limitation otherwise applicable to such facility and moves toward the national goal of eliminating the discharge of all pollutants, or with the installation of an innovative control technique that has a substantial likelihood for enabling the facility to comply with the applicable effluent limitation by achieving a significantly greater effluent reduction than that required by the applicable effluent limitation and moves toward the national goal of eliminating the discharge of all pollutants, or by achieving the required reduction with an innovative system that has the potential for significantly lower costs than the systems which have been determined by the Administrator to be economically achievable, the Administrator (or the State with an approved program under section 402, in consultation with the Administrator) may establish a date for compliance under subsection (b)(2)(A) *or (b)(2)(E)* of this section no later than [July 1, 1987,] *two years after the date for compliance with such effluent limitation which would otherwise be applicable under such subsection,* if it is also determined that such innovative system has the potential for industrywide application.

(l) [The] *Other than as provided in subsection (n) of this section, the* Administrator may not modify any requirement of this section as it applies to any specific pollutant which is on the toxic pollutant list under section 307(a)(1) of this Act.

(m)(1) The Administrator, with the concurrence of the State, may issue a permit under section 402 which modifies the requirements of subsections (b)(1)(A) and (b)(2)(E) of this section, and of section 403, with respect to effluent limitations to the extent such limitations relate to biochemical oxygen demand and pH from discharges by an industrial discharger in such State into deep waters of the territorial seas, if the applicant demonstrates and the Administrator finds that—

(A) the facility for which modification is sought is covered at the time of the enactment of this subsection by National Pollutant Discharge Elimination System permit number CA0005894 or CA0005282;

(B) the energy and environmental costs of meeting such requirements of subsection (b)(1)(A) and (b)(2)(E) and section 403 exceed by an unreasonable amount the benefits to be obtained, including the objectives of this Act;

(C) the applicant has established a system for monitoring the impact of such discharges on a representative sample of aquatic biota;

(D) such modified requirements will not result in any additional requirements on any other point or nonpoint source;

(E) there will be no new or substantially increased discharges from the point source of the pollutant to which the modification applies above that volume of discharge specified in the permit;

(F) the discharge is into waters where there is strong tidal movement and other hydrological and geological characteristics which are necessary to allow compliance with this subsection and section 101(a)(2) of this Act;

(G) the applicant accepts as a condition to the permit a contractural obligation to use funds in the amount required (but not less than $250,000 per year for ten years) for research and development of water pollution control technology, including but not limited to closed cycle technology;

(H) the facts and circumstances present a unique situation which, if relief is granted, will not establish a precedent or the relaxation of the requirements of this Act applicable to similarly situated discharges; and

(I) no owner or operator of a facility comparable to that of the applicant situated in the United States has demonstrated that it would be put at a competitive disadvantage to the applicant (or the parent company or any subsidiary thereof) as a result of the issuance of a permit under this subsection.

(2) The effluent limitations established under a permit issued under paragraph (1) shall be sufficient to implement the applicatant State water quality standards, to assure the protection of public water supplies and protection and propagation of a balanced, indigenous pollution of shellfish, fish, fauna, wildlife, and other aquatic organisms, and to allow recreational activities in and on the water. In setting such limitations, the Administrator shall take into account any seasonal variations and the need for an adequate margin of safety, considering the lack of essential knowledge concerning the relationship between effluent limitations and water quality and the lack of essential knowledge of the effects of discharges on beneficial uses of the receiving waters.

(3) A permit under this subsection may be issued for a period not to exceed five years, and such a permit may be renewed for one additional period not to exceed five years upon a demonstration by the applicant and a finding by the Administrator at the time of application for any such renewal that the provisions of this subsection are met.

(4) The Administrator may terminate a permit issued under this subsection if the Administrator determines that there has been a decline in ambient water quality of the receiving waters during the period of the permit even if a direct cause and effect relationship cannot be shown: *Provided,* That if the effluent from a source with a permit issued under this subsection is contributing to a decline in ambient water quality of the receiving waters, the Administrator shall terminate such permit.

(n) FUNDAMENTALLY DIFFERENT FACTORS.—

(1) GENERAL RULE.—The Administrator, with the concurrence of the State, may establish an alternative requirement under subsection (b)(2) or section 307(b) for a facility that modifies the requirements of national effluent limitation guidelines or categorical pretreatment standards that would otherwise be applicable to such facility, if the owner or operator of such facility demonstrates to the satisfaction of the Administrator that—

(A) the facility is fundamentally different with respect to the factors (other than cost) specified in section 304(b) or 304(g) and considered by the Administrator in establishing such national effluent limitation guidelines or categorical pretreatment standards;

(B) the application—

(i) is based solely on information and supporting data submitted to the Administrator during the rulemaking for establishment of the applicable national effluent limitation guidelines or categorical pretreatment standard specifically raising the factors that are fundamentally different for such facility; or

(ii) is based on information and supporting data referred to in clause (i) and information and supporting data the applicant did not have a reasonable opportunity to submit during such rulemaking;

(C) the alternative requirement is no less stringent than justified by the fundamental difference; and

(D) the alternative requirement will not result in a nonwater quality environmental impact which is markedly more adverse than the impact considered by the Administrator in establishing such national effluent limitation guideline or categorical pretreatment standard.

(2) TIME LIMIT FOR APPLICATIONS.—An application for an alternative requirement which modifies the requirements of an effluent limitation or pretreatment standard under this subsection must be submitted to the Administrator within 180 days after the date on which such limitation or standard is established or revised, as the case may be.

(3) TIME LIMIT FOR DECISION.—The Administrator shall approve or deny by final agency action an application submitted under this subsection within 180 days after the date such application is filed with the Administrator.

(4) SUBMISSION OF INFORMATION.—The Administrator may allow an applicant under this subsection to submit information and supporting data until the earlier of the date the application is approved or denied or the last day that the Administrator has to approve or deny such application.

(5) Treatment of pending applications.—For the purposes of this subsection, an application for an alternative requirement based on fundamentally different factors which is pending on the date of the enactment of this subsection shall be treated as having been submitted to the Administrator on the 180th day following such date of enactment. The applicant may amend the application to take into account the provisions of this subsection.

(6) Effect of submission of application.—An application for an alternative requirement under this subsection shall not stay the applicant's obligation to comply with the effluent limitation guideline or categorical pretreatment standard which is the subject of the application.

(7) Effect of denial.—If an application for an alternative requirement which modifies the requirements of an effluent limitation or pretreatment standard under this subsection is denied by the Administrator, the applicant must comply with such limitation or standard as established or revised, as the case may be.

(8) Reports.—Every 6 months after the date of the enactment of this subsection, the Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the status of applications for alternative requirements which modify the requirements of effluent limitations under section 301 or 304 of this Act or any national categorical pretreatment standard under section 307(b) of this Act filed before, on, or after such date of enactment.

(o) Application Fees.—The Administrator shall prescribe and collect from each applicant fees reflecting the reasonable administrative costs incurred in reviewing and processing applications for modifications submitted to the Administrator pursuant to subsections (c), (g), (i), (k), (m), and (n) of section 301, section 304(d)(4), and section 316(a) of this Act. All amounts collected by the Administrator under this subsection shall be deposited into a special fund of the Treasury entitled "Water Permits and Related Services" which shall thereafter be available for appropriation to carry out activities of the Environmental Protection Agency for which such fees were collected.

(p) Modified Permit for Coal Remining Operations.—

(1) In general.—Subject to paragraphs (2) through (4) of this subsection, the Administrator, or the State in any case which the State has an approved permit program under section 402(b), may issue a permit under section 402 which modifies the requirements of subsection (b)(2)(A) of this section with respect to the pH level of any pre-existing discharge, and with respect to pre-existing discharges of iron and manganese from the remined area of any coal remining operation or with respect to the pH level or level of iron or manganese in any pre-existing discharge affected by the remining operation. Such modified requirements shall apply the best available technology economically achievable on a case-by-case basis, using best professional judgment, to set specific numerical effluent limitations in each permit.

(2) Limitations.—The Administrator or the State may only issue a permit pursuant to paragraph (1) if the applicant demonstrates to the satisfaction of the Administrator or the State, as the case may be, that the coal remining operation will result in the potential for improved water quality from the remining operation but in no event shall such a permit allow the pH level of any discharge, and in no event shall such a permit allow the discharges of iron and manganese, to exceed the levels being discharged from the remined area before the coal remining operation begins. No discharge from, or affected by, the remining operation shall exceed State water quality standards established under section 303 of this Act.

(3) Definitions.—For purposes of this subsection—

(A) Coal remining operation.—The term "coal remining operation" means a coal mining operation which begins after the date of the enactment of this subsection at a site on which coal mining was conducted before the effective date of the Surface Mining Control and Reclamation Act of 1977.

(B) Remined area.—The term "remined area" means only that area of any coal remining operation on which coal mining was conducted before the effective date of the Surface Mining Control and Reclamation Act of 1977.

(C) Pre-existing discharge.—The term "pre-existing discharge" means any discharge at the time of permit application under this subsection.

(4) Applicability of strip mining laws.—Nothing in this subsection shall affect the application of the Surface Mining Control and Reclamation Act of 1977 to any coal remining operation, including the application of such Act to suspended solids.

WATER QUALITY RELATED EFFLUENT LIMITATIONS

Sec. 302. (a) Whenever, in the judgment of the Administrator, *or as identified under section 304(l),* discharges of pollutants from a point source or group of point sources, with the application of effluent limitations required under section 301(b)(2) of this Act, would interfere with the attainment or maintenance of that water quality in a specific portion of the navigable waters which shall assure protection of *public health,* public water supplies, agricultural and industrial uses, and the protection and propagation of a balanced population of shellfish, fish and wildlife, and allow recreational activities in and on the water, effluent limitations (including alternative effluent control strategies) for such point source or sources shall be established which can reasonably be expected to contribute to the attainment or maintenance of such water quality.

[(b)(1) Prior to establishment of any effluent limitation pursuant to subsection (a) of this section, the Administrator shall issue notice of intent to establish such limitation and within ninety days of such notice hold a public hearing to determine the relationship of the economic and social costs of achieving any such limitation or limitations, including any economic or social dislocation in the affected community or communities, to the social and economic bene-

fits to be obtained (including the attainment of the objective of this Act) and to determine whether or not such effluent limitations can be implemented with available technology or other alternative control strategies.

[(2) If a person affected by such limitation demonstrates at such hearing that (whether or not such technology or other alternative control strategies are available) there is no reasonable relationship between the economic and social costs and the benefits to be obtained (including attainment of the objective of this Act), such limitation shall not become effective and the Administrator shall adjust such limitation as it applies to such person.]

(b) MODIFICATIONS OF EFFLUENT LIMITATIONS.—

(1) NOTICE AND HEARING.—Prior to establishment of any effluent limitation pursuant to subsection (a) of this section, the Administrator shall publish such proposed limitation and within 90 days of such publication hold a public hearing.

(2) PERMITS.—

(A) NO REASONABLE RELATIONSHIP.—The Administrator, with the concurrence of the State, may issue a permit which modifies the effluent limitations required by subsection (a) of this section for pollutants other than toxic pollutants if the applicant demonstrates at such hearing that (whether or not technology or other alternative control strategies are available) there is no reasonable relationship between the economic and social costs and the benefits to be obtained (including attainment of the objective of this Act) from achieving such limitation.

(B) REASONABLE PROGRESS.—The Administrator, with the concurrence of the State, may issue a permit which modifies the effluent limitations required by subsection (a) of this section for toxic pollutants for a single period not to exceed 5 years if the applicant demonstrates to the satisfaction of the Administrator that such modified requirements (i) will represent the maximum degree of control within the economic capability of the owner and operator of the source, and (ii) will result in reasonable further progress beyond the requirements of section 301(b)(2) toward the requirements of subsection (a) of this section.

(c) The establishment of effluent limitations under this section shall not operate to delay the application of any effluent limitation established under section 301 of this Act.

WATER QUALITY STANDARDS AND IMPLEMENTATION PLANS

SEC. 303. (a)(1) In order to carry out the purpose of this Act, any water quality standard applicable to interstate waters which was adopted by any State and submitted to, and approved by, or is awaiting approval by, the Administrator pursuant to this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, shall remain in effect unless the Administrator determined that such standard is not consistent with the applicable requirements of this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972. If the Administrator makes such a determination he shall, within three months after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, notify the State and specify the changes needed to meet such requirements. If such changes are not adopted by the State within ninety days after the date of such notification, the Administrator shall promulgate such changes in accordance with subsection (b) of this section.

(2) Any State which, before the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, has adopted, pursuant to its own law, water quality standards applicable to intrastate waters shall submit such standards to the Administrator within thirty days after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972. Each such standard shall remain in effect, in the same manner and to the same extent as any other water quality standard established under this Act unless the Administrator determines that such standard is inconsistent with the applicable requirements of this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972. If the Administrator makes such a determination he shall not later than the one hundred and twentieth day after the date of submission of such standards, notify the State and specify the changes needed to meet such requirements. If such changes are not adopted by the State within ninety days after such notification, the Administrator shall promulgate such changes in accordance with subsection (b) of this section.

(3)(A) Any State which prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 has not adopted pursuant to its own laws water quality standards applicable to intrastate waters shall, not later than one hundred and eighty days after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, adopt and submit such standards to the Administrator.

(B) If the Administrator determines that any such standards are consistent with the applicable requirements of this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, he shall approve such standards.

(C) If the Administrator determines that any such standards are not consistent with the applicable requirements of this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, he shall, not later than the ninetieth day after the date of submission of such standards, notify the State and specify the changes to meet such requirements. If such changes are not adopted by the State within ninety days after the date of notification, the Administrator shall promulgate such standards pursuant to subsection (b) of this section.

(b)(1) The Administrator shall promptly prepare and publish proposed regulations setting forth water quality standards for a State in accordance with the applicable requirements of this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, if—

(A) the State fails to submit water quality standards within the times prescribed in subsection (a) of this section,

(B) a water quality standard submitted by such State under subsection (a) of this section is determined by the Administrator not to be consistent with the applicable requirements of subsection (a) of this section.

(2) The Administrator shall promulgate any water quality standard published in a proposed regulation not later than one hundred and ninety days after the date he publishes any such proposed standard, unless prior to such promulgation, such State has adopted a water quality standard which the Administrator determines to be in accordance with subsection (a) of this section.

(c)(1) The Governor of a State or the State water pollution control agency of such State shall from time to time (but at least once each three year period beginning with the date of enactment of the Federal Water Pollution Control Act Amendments of 1972) hold public hearings for the purpose of reviewing applicable water quality standards and, as appropriate, modifying and adopting standards. Results of such review shall be made available to the Administrator.

(2)*(A)* Whenever the State revises or adopts a new standard, such revised or new standard shall be submitted to the Administrator. Such revised or new water quality standard shall consist of the designated uses of the navigable waters involved and the water quality criteria for such waters based upon such uses. Such standards shall be such as to protect the public health or welfare, enhance the quality of water and serve the purposes of this Act. Such standards shall be established taking into consideration their use and value for public water supplies, propagation of fish and wildlife, recreational purposes, and agricultural, industrial, and other purposes, and also taking into consideration their use and value for navigation.

(B) Whenever a State reviews water quality standards pursuant to paragraph (1) of this subsection, or revises or adopts new standards pursuant to this paragraph, such State shall adopt criteria for all toxic pollutants listed pursuant to section 307(a)(1) of this Act for which criteria have been published under section 304(a), the discharge or presence of which in the affected waters could reasonably be expected to interfere with those designated uses adopted by the State, as necessary to support such designated uses. Such criteria shall be specific numerical criteria for such toxic pollutants. Where such numerical criteria are not available, whenever a State reviews water quality standards pursuant to paragraph (1), or revises or adopts new standards pursuant to this paragraph, such State shall adopt criteria based on biological monitoring or assessment methods consistent with information published pursuant to section 304(a)(8). Nothing in this section shall be construed to limit or delay the use of effluent limitations or other permit conditions based on or involving biological monitoring or assessment methods or previously adopted numerical criteria.

(3) If the Administrator, within sixty days after the date of submission of the revised or new standard, determines that such standard meets the requirements of this Act, such standard shall thereafter be the water quality standard for the applicable waters

of that State. If the Administrator determines that any such revised or new standard is not consistent with the applicable requirements of this Act, he shall not later than the ninetieth day after the date of submission of such standard notify the State and specify the changes to meet such requirements. If such changes are not adopted by the State within ninety days after the date of notification, the Administrator shall promulgate such standard pursuant to paragraph (4) of this subsection.

(4) The Administrator shall promptly prepare and publish proposed regulations setting forth a revised or new water quality standard for the navigable waters involved—

(A) if a revised or new water quality standard submitted by such State under paragraph (3) of this subsection for such waters is determined by the Administrator not to be consistent with the applicable requirements of this Act, or

(B) in any case where the Administrator determines that a revised or new standard is necessary to meet the requirements of this Act.

The Administrator shall promulgate any revised or new standard under this paragraph not later than ninety days after he publishes such proposed standards, unless prior to such promulgation, such State has adopted a revised or new water quality standard which the Administrator determines to be in accordance with this Act.

(d)(1)(A) Each State shall identify those waters within its boundaries for which the effluent limitations required by section 301(b)(1)(A) and section 301(b)(1)(B) are not stringent enough to implement any water quality standard applicable to such waters. The State shall establish a priority ranking for such waters, taking into account the severity of the pollution and the uses to be made of such waters.

(B) Each State shall identify those waters or parts thereof within its boundaries for which controls on thermal discharges under section 301 are not stringent enough to assure protection and propagation of a balanced indigenous population of shellfish, fish, and wildlife.

(C) Each State shall establish for the waters identified in paragraph (1)(A) of this subsection, and in accordance with the priority ranking, the total maximum daily load, for those pollutants which the Administrator identifies under section 304(a)(2) as suitable for such calculation. Such load shall be established at a level necessary to implement the applicable water quality standards with seasonal variations and a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality.

(D) Each State shall estimate for the waters identified in paragraph (1)(D) of this subsection the total maximum daily thermal load required to assure protection and propagation of a balanced, indigenous population of shellfish, fish and wildlife. Such estimates shall take into account the normal water temperatures, flow rates, seasonal variations, existing sources of heat input, and the dissipative capacity of the identified waters or parts thereof. Such estimates shall include a calculation of the maximum heat input that can be made into each such part and shall include a margin of safety which takes into account any lack of knowledge concerning the development of thermal water quality criteria for such protection and propagation in the identified waters or parts thereof.

(2) Each State shall submit to the Administrator from time to time, with the first such submission not later that one hundred and eighty days after the date of publication of the first identification of pollutants under section 304(a)(2)(D), for his approval the waters identified and the loads established under paragraphs (1)(A), (1)(B), (1)(C), and (1)(D) of this subsection. The Administrator shall either approve or disapprove such identification and load not later than thirty days after the date of submission. If the Administrator approves such identification and load, such State shall incorporate them into its current plan under subsection (e) of this section. If the Administrator disapproves such identification and load, he shall not later than thirty days after the date of such disapproval identify such waters in such State and establish such loads for such waters as he determines necessary to implement the water quality standards applicable to such waters and upon such identification and establishment the State shall incorporate them into its current plan under subsection (e) of this section.

(3) For the specific purpose of developing information, each State shall identify all waters within its boundaries which it has not identified under paragraph (1)(A) and (1)(B) of this subsection and estimate for such waters the total maximum daily load with seasonal variations and margins of safety, for those pollutants which the Administrator identifies under section 304(a)(2) as suitable for such calculation and for thermal discharges, at a level that would assure protection and propagation of a balanced indigenous population of fish, shellfish and wildlife.

(4) LIMITATIONS ON REVISION OF CERTAIN EFFLUENT LIMITATIONS.—

(A) STANDARD NOT ATTAINED.—For waters identified under paragraph (1)(A) where the applicable water quality standard has not yet been attained, any effluent limitation based on a total maximum daily load or other waste load allocation established under this section may be revised only if (i) the cumulative effect of all such revised effluent limitations based on such total maximum daily load or waste load allocation will assure the attainment of such water quality standard, or (ii) the designated use which is not being attained is removed in accordance with regulations established under this section.

(B) STANDARD ATTAINED.—For waters identified under paragraph (1)(A) where the quality of such waters equals or exceeds levels necessary to protect the designated use for such waters or otherwise required by applicable water quality standards, any effluent limitation based on a total maximum daily load or other waste load allocation established under this section, or any water quality standard established under this section, or any other permitting standard may be revised only if such revision is subject to and consistent with the antidegradation policy established under this section.

(e)(1) Each State shall have a continuing planning process approved under paragraph (2) of this subsection which is consistent with this Act.

(2) Each State shall submit not later than 120 days after the date of the enactment of the Water Pollution Control Amendments of 1972 to the Administrator for his approval a proposed continuing planning process which is consistent with this Act. Not later than thirty days after the date of submission of such a process the Administrator shall either approve or disapprove such process. The Administrator shall from time to time review each State's approved planning process for the purpose of insuring that such planning process is at all times consistent with this Act. The Administrator shall not approve any State permit program under title IV of this Act for any State which does not have an approved continuing planning process under this section.

(3) The Administrator shall approve any continuing planning process submitted to him under this section which will result in plans for all navigable waters within such State, which include, but are not limited to, the following:

(A) effluent limitations and schedules of compliance at least as stringent as those required by section 301(b)(1), section 301(b)(2), section 306, and section 307, and at least as stringent as any requirements contained in any applicable water quality standard in effect under authority of this section;

(B) the incorporation of all elements of any applicable areawide waste management plans under section 208, and applicable basin plans under section 209 of this Act;

(C) total maximum daily load for pollutants in accordance with subsection (d) of this section;

(D) procedures for revision;

(E) adequate authority for intergovernmental cooperation;

(F) adequate implementation, including schedules of compliance, for revised or new water quality standards, under subsection (c) of this section;

(G) controls over the disposition of all residual waste from any water treatment processing;

(H) an inventory and ranking, in order of priority, of needs for construction of waste treatment works required to meet the applicable requirements of sections 301 and 302.

(f) Nothing in this section shall be construed to affect any effluent limitation, or schedule of compliance required by any State to be implemented prior to the dates set forth in sections 301(b)(1) and 301(b)(2) nor to preclude any State from requiring compliance with any effluent limitation or schedule of compliance at dates earlier than such dates.

(g) Water quality standards relating to heat shall be consistent with the requirements of section 316 of this Act.

(h) For the purposes of this Act the term "water quality standards" includes thermal water quality standards.

INFORMATION AND GUIDELINES

SEC. 304. (a)(1) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall develop and publish, within one year after the date of enactment of this title (and from time to time thereafter revise) criteria for water quality accurately reflecting the latest scientific knowledge (A) of the kind and extent of all identifiable effects on health and welfare including, but not limited to, plankton, fish, shellfish, wildlife, plant life, shorelines, beaches, esthetics, and recreation which may be expected from the presence of pollutants in any body of water, including ground water; (B) on the concentration and dispersal of pollutants, or their byproducts, through biological, physical, and chemical processes; and (C) on the effects of pollutants on biological community diversity, productivity, and stability, including information on the factors affecting rates of eutrophication and rates of organic and inorganic sedimentation for varying types of receiving waters.

(2) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall develop and publish, within one year after the date of enactment of this title (and from time to time thereafter revise) information (A) on the factors necessary to restore and maintain the chemical, physical, and biological integrity of all navigable waters, ground waters, waters of the contiguous zone, and the oceans; (B) on the factors necessary for the protection and propagation of shellfish, fish, and wildlife for classes and categories of receiving waters and to allow recreational activities in and on the water; and (C) on the measurement and classification of water quality; and (D) for the purpose of section 303, on and the identification of pollutants suitable for maximum daily load measurement correlated with the achievement of water quality objectives.

(3) Such criteria and information and revisions thereof shall be issued to the States and shall be published in the Federal Register and otherwise made available to the public.

(4) The Administrator shall, within 90 days after the date of enactment of the Clean Water Act of 1977 and from time to time thereafter, publish and revise as appropriate information identifying conventional pollutants, including but not limited to, pollutants classified as biological oxygen demanding, suspended solids, fecal coliform, and pH. The thermal components of any discharge shall not be identified as a conventional pollutant under this paragraph.

(5)(A) The Administrator, to the extent practicable before consideration of any request under section 301(g) of this Act and within six months after the date of enactment of the Clean Water Act of 1977, shall develop and publish information on the factors necessary for the protection of public water supplies, and the protection and propagation of a balanced population of shellfish, fish and wildlife, and to allow recreational activities in and on the water.

(B) The Administrator, to the extent practicable before consideration of any application under section 301(h) of this Act and within six months after the date of enactment of the Clean Water Act of 1977, shall develop and publish information on the factors necessary for the protection of public water supplies, and the protection and propagation of a balanced indigenous population of shellfish, fish and wildlife, and to allow recreational activities, in and on the water.

(6) The Administrator shall, within three months after enactment of the Clean Water Act of 1977 and annually thereafter, for purposes of section 301(h) of this Act publish and revise as appropriate information identifying each water quality standard in effect

under this Act of State law, the specific pollutants associated with such water quality standard, and the particular waters to which such water quality standard applies.

(7) GUIDANCE TO STATES.—The Administrator, after consultation with appropriate State agencies and on the basis of criteria and information published under paragraphs (1) and (2) of this subsection, shall develop and publish, within 9 months after the date of the enactment of the Water Quality Act of 1987, guidance to the States on performing the identification required by section 304(l)(1) of this Act.

(8) INFORMATION ON WATER QUALITY CRITERIA.—The Administrator, after consultation with appropriate State agencies and within 2 years after the date of the enactment of the Water Quality Act of 1987, shall develop and publish information on methods for establishing and measuring water quality criteria for toxic pollutants on other bases than pollutant-by-pollutant criteria, including biological monitoring and assessment methods.

(b) For the purpose of adopting or revising effluent limitations under this Act the Administrator shall, after consultation with appropriate Federal and State agencies and other interested persons, publish within one year of enactment of this title, regulations, providing guidelines for effluent limitations, and, at least annually thereafter, revise, if appropriate, such regulations. Such regulations shall—

(1)(A) identify, in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, the degree of effluent reduction attainable through the application of the best practicable control technology currently available for classes and categories of point sources (other than publicly owned treatment works); and

(B) specify factors to be taken into account in determining the control measures and practices to be applicable to point sources (other than publicly owned treatment works) within such categories or classes Factors relating to the assessment of best practicable control technology currently available to comply with subsection (b)(1) of section 301 of this Act shall include consideration of the total cost of application of technology in relation to the effluent reduction benefits to be achieved from such application, and shall also take into acccount the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, non-water quality environmental impact (including energy requirements), and such other factors as the Administrator deems appropriate;

(2)(A) identify, in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, the degree of effluent reduction attainable through the application of the best control measures and practices achievable including treatment techniques, process and procedure innovations, operating methods, and other alternatives for classes and categories of point sources (other than publicly owned treatment works); and

(B) specify factors to be taken into account in determining the best measures and practices available to comply with subsection (b)(2) of section 301 of this Act to be applicable to any point source (other than publicly owned treatment works) within such categories of classes. Factors relating to the assessment of best available technology shall take into account the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, the cost of achieving such effluent reduction, non-water quality environmental impact (including energy requirements), and such other factors as the Administrator deems appropriate;

(3) identify control measures and practices available to eliminate the discharge of pollutants from categories and classes of point sources, taking into account the cost of achieving such elimination of the discharge of pollutants; and

(4)(A) identify, in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, the degree of effluent reduction attainable through the application of the best conventional pollutant control technology (including measures and practices) for classes and categories of point sources (other than publicly owned treatment works); and

(B) specify factors to be taken into account in determining the best conventional pollutant control technology measures and practices to comply with section 301(b)(2)(E) of this Act to be applicable to any point source (other than publicly owned treatment works) within such categories or classes. Factors relating to the assessment of best conventional pollutant control technology (including measures and practices) shall include consideration of the reasonableness of the relationship between the costs of attaining a reduction in effluents and the effluent reduction benefits derived and the comparison of the cost and level of reduction of such pollutants from the discharge from publicly owned treatment works to the cost and level of reduction of such pollutants from a class or category of industrial sources, and shall take into account the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, non-water quality environmental impact (including energy requirements), and such other factors as the Administrator deems appropriate),

(c) The Administrator, after consultation, with appropriate Federal and State agencies and other interested persons, shall issue to the States and appropriate water pollution control agencies within 270 days after enactment of this title (and from time to time thereafter) information on the processes, procedures, or operating methods which result in the elimination or reduction of the discharge of pollutants to implement standards of performance under section 306 of this Act. Such information shall include technical and other data, including costs, as are available on alternative methods of elimination or reduction of the discharge of pollutants. Such information, and revisions thereof, shall be published in the Federal Register and otherwise shall be made available to the public.

(d)(1) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall publish within sixty days after enactment of this title (and from time to time thereafter) information, in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, on the degree of effluent reduction attainable through the application of secondary treatment.

(2) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall publish within nine months after the date of enactment of this title (and from time to time thereafter) information on alternative waste treatment management techniques and systems available to implement section 201 of this Act.

(3) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall promulgate within one hundred and eighty days after the date of enactment of this subsection guidelines for identifying and evaluating innovative and alternative wastewater treatment processes and techniques referred to in section 201(g)(5) of this Act.

(4) For the purposes of this subsection, such biological treatment facilities as oxidation ponds, lagoons, and ditches and trickling filters shall be deemed the equivalent of secondary treatment. The Administrator shall provide guidance under paragraph (1) of this subsection on design criteria for such facilities, taking into account pollutant removal efficiencies and, consistent with the objective of the Act, assuring that water quality will not be adversely affected by deeming such facilities as the equivalent of secondary treatment.

(e) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, may publish regulations, supplemental to any effluent limitations specified under subsections (b) and (c) of this section for a class or category of point sources, for any specific pollutant which the Administrator is charged with a duty to regulate as a toxic or hazardous pollutant under section 307(a)(1) or 311 of this Act, to control plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage which the Administrator determines are associated with or ancillary to the industrial manufacturing or treatment process within such class or category of point sources and may contribute significant amounts of such pollutants to navigable waters. Any applicable controls established under this subsection shall be included as a requirement for the purposes of section 301, 302, 306, 307, or 403, as the case may be, in any permit issued to a point source pursuant to section 402 of this Act.

(f) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall issue to appropriate Federal agencies, the States, water pollution control agencies, and agencies designated under section 208 of this Act, within one year after the effective date of this subsection (and from time to time thereafter) information including (1) guidelines for identifying and evaluating the nature and extent of nonpoint sources of pollutants, and (2) processes, procedures, and methods to control pollution resulting from—

(A) agricultural and silvicultural activities, including runoff from fields and crop and forest lands;

(B) mining activities, including runoff and siltation from new, currently operating, and abandoned surface and underground mines;

(C) all construction activity, including runoff from the facilities resulting from such construction;

(D) the disposal of pollutants in wells or in subsurface excavations;

(E) salt water intrusion resulting from reductions of fresh water flow from any cause, including extraction of ground water, irrigation, obstruction, and diversion; and

(F) changes in the movement, flow, or circulation of any navigable waters or ground waters, including changes caused by the construction of dams, levees, channels, causeways, or flow diversion facilities.

Such information and revisions thereof shall be published in the Federal Register and otherwise made available to the public.

(g)(1) For the purpose of assisting States in carrying out programs under section 402 of this Act, the Administrator shall publish, within one hundred and twenty days after the date of enactment of this title, and review at least annually thereafter and, if appropriate, revise guidelines for pretreatment of pollutants which he determines are not susceptible to treatment by publicly owned treatment works. Guidelines under this subsection shall be established to control and prevent the discharge into the navigable waters, the contiguous zone, or the ocean (either directly or through publicly owned treatment works) of any pollutant which inteferes with, passes through or otherwise is incompatible with such works.

(2) When publishing guidelines under this subsection, the Administrator shall designate the category or categories of treatment works to which the guidelines shall apply.

(h) The Administrator shall, within one hundred and eighty days from the date of enactment of this title, promulgate guidelines establishing test procedures for the analysis of pollutants that shall include the factors which must be provided in any certification pursuant to section 401 of the Act or permit application pursuant to section 402 of this Act.

(i) The administrator shall (1) within sixty days after the enactment of this title promulgate guidelines for the purpose of establishing uniform application forms and other minimum requirements for the acquisition of information from owners and operators or point-sources of discharge subject to any State program under section 402 of this Act, and (2) within sixty days from the date of enactment of this title promulgate guidelines establishing the minimum procedural and other elements of any State program under section 402 of this Act which shall include:

(A) monitoring requirements;

(B) reporting requirements (including procedures to make information available to the public);

(C) enforcement provisions; and

(D) funding, personnel qualifications, and manpower requirements (including a requirement that no board or body which approves permit applications or portions thereof shall include, as a member, any person who receives, or has during the previous two years received, a significant portion of his income directly or indirectly from permit holders or applicants for a permit).

[(j) The Administrator shall issue information biennually on methods, procedures, and processes as may be appropriate to restore and enhance the quality of the Nation's publicly owned freshwater lakes.]

(j) Lake Restoration Guidance Manual.—The Administrator shall, within 1 year after the date of the enactment of the Water Quality Act of 1987 and biennially thereafter, publish and disseminate a lake restoration guidance manual describing methods, procedures, and processes to guide State and local efforts to improve, restore, and enhance water quality in the Nation's publicly owned lakes.

(k)(1) The Administrator shall enter into agreements with the Secretary of Argiculture, the Secretary of the Army, and the Secretary of the Interior, and the heads of such other departments, agencies, and instrumentalities of the United States as the Administrator determines, to provide for the maximum utilization of other Federal laws and programs for the purpose of achieving and maintaining water quality through appropriate implementation of plans approved under section 208 of this Act *and nonpoint source pollution management programs approved under section 319 of this Act.*

(2) The Administrator is authorized to transfer to the Secretary of Agriculture, the Secretary of the Army, and the Secretary of the Interior and the heads of such other departments, agencies, and instrumentalities of the United States as the Administrator determines, any funds appropriated under paragraph (3) of this subsection to supplement funds otherwise appropriated to programs authorized pursuant to any agreement under paragraph (1).

(3) There is authorized to be appropriated to carry out the provisions of this subsection $100,000,000 per fiscal year for the fiscal years 1979 through 1983 *and such sums as may be necessary for fiscal years 1984 through 1990.*

(l) Individual Control Strategies for Toxic Pollutants.—

(1) State list of navigable waters and development of strategies.—Not later than 2 years after the date of the enactment of this subsection, each State shall submit to the Administrator for review, approval, and implementation under this subsection—

(A) a list of those waters within the State which after the application of effluent limitations required under section 301(b)(2) of this Act cannot reasonably be anticipated to attain or maintain (i) water quality standards for such waters reviewed, revised, or adopted in accordance with section 303(c)(2)(B) of this Act, due to toxic pollutants, or (ii) that water quality which shall assure protection of public health, public water supplies, agricultural and industrial uses, and the protection and propagation of a balanced population of shellfish, fish and wildiife, and allow recreational activities in and on the water;

(B) a list of all navigable waters in such State for which the State does not expect the applicable standard under sec-

tion 303 of this Act will be achieved after the requirements of sections 301(b), 306, and 307(b) are met, due entirely or substantially to discharges from point sources of any toxic pollutants listed pursuant to section 307(a);

(C) for each segment of the navigable waters included on such lists, a determination of the specific point sources discharging any such toxic pollutant which is believed to be preventing or impairing such water quality and the amount of each such toxic pollutant discharged by each such source; and

(D) for each such segment, an individual control strategy which the State determines will produce a reduction in the discharge of toxic pollutants from point sources identified by the State under this paragraph through the establishment of effluent limitations under section 402 of this Act and water quality standards under section 303(c)(2)(B) of this Act, which reduction is sufficient, in combination with existing controls on point and nonpoint sources of pollution, to achieve the applicable water quality standard as soon as possible, but not later than 3 years after the date of the establishment of such strategy.

(2) APPROVAL OR DISAPPROVAL.—Not later than 120 days after the last day of the 2-year period referred to in paragraph (1), the Administrator shall approve or disapprove the control strategies submitted under paragraph (1) by any State.

(3) ADMINISTRATOR'S ACTION.—If a State fails to submit control strategies in accordance with paragraph (1) or the Administrator does not approve the control strategies submitted by such State in accordance with paragraph (1), then, not later than 1 year after the last day of the period referred to in paragraph (2), the Administrator, in cooperation with such State and after notice and opportunity for public comment, shall implement the requirements of paragraph (1) in such State. In the implementation of such requirements, the Administrator shall, at a minimum, consider for listing under this subsection any navigable waters for which any person submits a petition to the Administrator for listing not later than 120 days after such last day.

(m) SCHEDULE FOR REVIEW OF GUIDELINES.—

(1) PUBLICATION.—Within 12 months after the date of the enactment of the Water Quality Act of 1987, and biennially thereafter, the Administrator shall publish in the Federal Register a plan which shall—

(A) establish a schedule for the annual review and revision of promulgated effluent guidelines, in accordance with subsection (b) of this section;

(B) identify categories of sources discharging toxic or nonconventional pollutants for which guidelines under subsection (b)(2) of this section and section 306 have not previously been published; and

(C) establish a schedule for promulgation of effluent guidelines for categories identified in subparagraph (B), under which promulgation of such guidelines shall be no later than 4 years after such date of enactment for categories identified in the first published plan or 3 years after

the publication of the plan for categories identified in later published plans.

(2) Public review.—The Administrator shall provide for public review and comment on the plan prior to final publication.

WATER QUALITY INVENTORY

Sec. 305. (a) The Administrator, in cooperation with the States and with the assistance of appropriate Federal agencies, shall prepare a report to be submitted to the Congress on or before January 1, 1974, which shall—

(1) describe the specific quality, during 1973, with appropriate supplemental descriptions as shall be required to take into account seasonal, tidal, and other variations, of all navigable waters and the waters of the contiguous zone;

(2) include an inventory of all point sources of discharge (based on a qualitative and quantitative analysis of discharges) of pollutants, into all navigable waters and the waters of the contiguous zone; and

(3) identify specifically those navigable waters, the quality of which—

(A) is adequate to provide for the protection and propagation of a balanced population of shellfish, fish, and wildlife and allow recreational activities in and on the water;

(B) can reasonably be expected to attain such level by 1977 or 1983; and

(C) can reasonably be expected to attain such level by any later date.

(b)(1) Each State shall prepare and submit to the Administrator by April 1, 1975, and shall bring up to date by April 1, 1976, and biennially thereafter, a report which shall include—

(A) a description of the water quality of all navigable waters in such State during the preceding year, with appropriate supplemental descriptions as shall be required to take into account seasonal, tidal, and other variations, correlated with the quality of water required by the objective of this Act (as identified by the Administrator pursuant to criteria published under section 304(a) of this Act) and the water quality described in subparagrpah (B) of this paragraph;

(B) an analysis of the extent to which all navigable waters of such State provide for the protection and propagation of a balanced population of shellfish, fish, and wildlife, and allow recreational activities in and on the water;

(C) an analysis of the extent to which the elimination of the discharge of pollutants and a level of water quality which provides for the protection and propagation of a balanced population of shellfish, fish, and wildlife and allows recreational activities in and on the water, have been or will be achieved by the requirements of this Act, together with recommendations as to additional action necessary to achieve such objectives and for what waters such additional action is necessary;

(D) an estimate of (i) the environmental impact, (ii) the economic and social costs necessary to achieve the objective of this

Act in such State, (iii) the economic and social benefits of such achievement, and (iv) an estimate of the date of such achievement; and

(E) a description of the nature and extent of nonpoint sources of pollutants, and recommendations as to the programs which must be undertaken to control each category of such sources, including an estimate of the costs of implementing such programs.

(2) The Administrator shall transmit such State reports, together with an analysis thereof, to Congress on or before October 1, 1975, and October 1, 1976, and biennially thereafter.

NATIONAL STANDARDS OF PERFORMANCE

SEC. 306. (a) For purposes of this section:

(1) The term "standard of performance" means a standard for the control of the discharge of pollutants which reflects the greatest degree of effluent reduction which the Administrator determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants.

(2) The term "new source" means any source, the construction of which is commenced after the publication of proposed regulations prescribing a standard of performance under this section which will be applicable to such source, if such standard is thereafter promulgated in accordance with this section.

(3) The term "source" means any building, structure, facility, or installation from which there is or may be the discharge of pollutants.

(4) The term "owner or operator" means any person who owns, leases, operates, controls, or supervises a source.

(5) The term "construction" means any placement, assembly, or installation of facilities or equipment (including contractual obligations to purchase such facilities or equipment) at the premises where such equipment will be used, including preparation work at such premises.

(b)(1)(A) The Administrator shall, within ninety days after the date of enactment of this title publish (and from time to time thereafter shall revise) a list of categories of sources, which shall at the minimum, include:

pulp and paper mills;
paperboard, builder paper and board mills;
meat product and rendering processing;
dairy product processing;
grain mills;
canned and preserved fruits and vegetables processing;
canned and preserved seafood processing;
sugar processing;
textile mills;
cement manufacturing;
feedlots;
electroplating;
organic chemicals manufacturing;

inorganic chemicals manufacturing;
plastic and synthetic materials manufacturing;
soap and detergent manufacturing;
fertilizer manufacturing;
petroleum refining;
iron and steel manufacturing;
nonferrous metals manufacturing;
phosphate manufacturing;
steam electric powerplants;
ferroalloy manufacturing;
leather tanning and finishing;
glass and asbestos manufacturing;
rubber processing; and
timber products processing.

(B) As soon as practicable, but in no case more than one year, after a category of sources is included in a list under subparagraph (A) of this paragraph, the Administrator shall propose and publish regulations establishing Federal standards of performance for new sources within such category. The Administrator shall afford interested persons an opportunity for written comment on such proposed regulations. After considering such comments, he shall promulgate, with one hundred and twenty days after publication of such proposed regulations, such standards with such adjustments as he deems appropriate. The Administrator shall from time to time, as technology and alternatives change, revise such standards following the procedure required by this subsection for promulgation of such standards. Standards of performance, or revisions thereof, shall become effective upon promulgation. In establishing or revising Federal standards of performance for new sources under this section, the Administrator shall take into consideration the cost of achieving such effluent reduction, and any non-water quality environmental impact and energy requirements.

(2) The Administrator may distinguish among classes, types, and sizes within categories of new sources for the purpose of establishing such standards and shall consider the type of process employed (including whether batch or continuous).

(3) The provisions of this section shall apply to any new source owned or operated by the United States.

(c) Each State may develop and submit to the Administrator a procedure under State law for applying and enforcing standards of performance for new sources located in such State. If the Administrator finds that the procedure and the law of any State require the application and enforcement of standards of performance to at least the same extent as required by this section, such State is authorized to apply and enforce such standards of performance (except with respect to new sources owned or operated by the United States).

(d) Notwithstanding any other provision of this Act, any point source the construction of which is commended after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 and which is no so constructed as to meet all applicable standards of performance shall not be subject to any more stringent standard of performance during a ten-year period beginning on the date of completion of such construction or during the period of depreciation or amortization of such facility for the purposes of section 167 or 169 (or both) of the Internal Revenue Code of 1954, whichever period ends first.

(e) After the effective date of standards of performance promulgated under this section, it shall be unlawful for any owner or operator of any new source to operate such source in violation of any standard of performance applicable to such source.

TOXIC AND PRETREATMENT EFFLUENT STANDARDS

SEC. 307. (a)(1) On and after the date of enactment of the Clean Water Act of 1978, the list of toxic pollutants or combination of pollutants subject to this Act shall consist of those toxic pollutants listed in table 1 of Committee Print Numbered 95-30 of the Committee on Public Works and Transportation of the House of Representatives, and the Administrator shall publish, not later than the thirtieth day after the date of enactment of the Clean Water Act of 1977, that list. From time to time thereafter, the Administrator may revise such list and the Administrator is authorized to add to or remove from such list any pollutant. The Administrator in publishing any revised list, including the addition or removal of any pollutant from such list, shall take into account the toxicity of the pollutant, it persistence, degradability, the usual or potential presence of the effected organisms in any waters, the importance of the affected organisms, and the nature and extent of the effect of the toxic pollutant on such organisms. A determination of the Administrator under this paragraph shall be final except that if, or judicial review, such determination was based on arbitary and capricious action of the Administrator, the Administrator shall make a redetermination.

(2) Each toxic pollutant listed in accordance with paragraph (1) of the subsection shall be subject to effluent limitations resulting from the application of the best available technology economically achieveable for the applicable category or class of point sources established in accordance with section 301(b)(2)(A) and 304(b)(2) of this Act. The Administrator, in his discretion, may publish in the Federal Register a proposed effluent standard (which may include a prohibition) establishing requirements for a toxic pollutant which, if an effluent limitation is applicable to a class or category of point sources, shall be applicable to such catergory or class only if such standard imposes more stringent requirements. Such published effluent standard (or prohibition) shall take into account the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms in any waters, the importance of the affected organisms and the nature and extent of the effect of the toxic pollutant on such organisms, and the extent to which effective control is being or may be achieved under other regulatory authority. The Administrator shall allow a period of not less than sixty days following publication of any such proposed effluent standard (or prohibition) for written comment by interested persons on such proposed standard. In addition, if within thirty days of publication of any such proposed effluent standard (or prohibition) any interested person so requests, the Administrator shall hold a public hearing in connection therewith. Such a public hear-

ing shall provide an opportunity for oral and written presentations, such cross-examination as the Administrator determines is appropriate on disputed issues of material fact, and the transcription of a verbatim record which shall be available to the public. After consideration of such comments and any information and material presented at any public hearing held on such proposed standard or prohibition, the Administrator shall promulgate such standards (or prohibition) with such modifications as the Administrator finds are justified. Such promulgation by the Administrator shall be made within two hundred and seventy days after publication of proposed standard (or prohibition). Such standard (or prohibition) shall be final except that if, on judicial review, such standard was not based on substantial evidence, the Administrator shall promulgate a revised standard. Effluent limitations shall be established in accordance with sections 301(b)(2)(A) and 304(b)(2) for every toxic pollutant referred to in table 1 of Committee Print Numbered 95-30 of the Committee on Public Works and Transportation of the House of Representatives as soon as practicable after the date of enactment of the Clean Water Act of 1977, but no later than July 1, 1980. Such effluent limitations or effluent standards (or prohibitions) shall be established for every other toxic pollutant listed under paragraph (1) of this subsection as soon as practicable after it is so listed.

(3) Each such effluent standard (or prohibition) shall be reviewed and, if appropriate, revised at least every three years.

(4) Any effluent standard promulgated under this section shall be at that level which the Administrator determines provides an ample margin of safety.

(5) When proposing or promulgating any effluent standard (or prohibition) under this section, the Administrator shall designate the category or categories of sources to which the effluent standard (or prohibition) shall apply. Any disposal of dredged material may be included in such a category of sources after consultation with the Secretary of the Army.

(6) Any effluent standard (or prohibition) established pursuant to this section shall take effect on such date or dates as specified in the order promulgating such standard, but in no case, more than one year from the date of such promulgation. If the Administrator determines that compliance within one year from the date of promulgation is technologically infeasible for a category of sources, the Administrator may establish the effective date of the effluent standard (or prohibition) for such category at the earliest date upon which compliance can be feasibly attained by sources within such category, but in no event more than three years after the date of such promulgation.

(7) Prior to publishing any regulations pursuant to this section the Administrator shall, to the maximum extent practicable within the time provided, consult with appropriate advisory committees, States, independent experts, and Federal departments and agencies.

(b)(1) The Administrator shall, within one hundred and eighty days after the date of enactment of this title and from time to time thereafter, publish proposed regulations establishing pretreatment standards for introduction of pollutants into treatment works (as defined in section 212 of this Act) which are publicly owned for those pollutants which are determined not to be susceptible to treatment by such treatment works or which would interfere with the operation of such treatment works. Not later than ninety days after such publication, and after opportunity for public hearing, the Administrator shall promulgate such pretreatment standards. Pretreatment standards under this subsection shall specify a time for compliance not to exceed three years from the date of promulgation and shall be established to prevent the discharge of any pollutant through treatment works (as defined in section 212 of this Act) which are publicly owned, which pollutant interferes with passes through, or otherwise is incompatible with such works. If, in the case of any toxic pollutant under subsection (a) of this section introduced by a source into a publicly owned treatment works, the treatment by such works removes all or any part of such toxic pollutant and the discharge from such works does not violate that effluent limitation or standard which would be applicable to such toxic pollutant if it were discharged by such source other than through a publicly owned treatment works, and does not prevent sludge use or disposal by such works in accordance with section 405 of this Act, then the pretreatment requirements for the sources actually discharging such toxic pollutant into such publicly owned treatment works may be revised by the owner or operator of such works to reflect the removal of such toxic pollutant by such works.

(2) The Administrator shall, from time to time, as control technology, processes, operating methods, or other alternative change, revise such standards following the procedure established by this subsection for promulgation of such standards.

(3) When proposing or promulgating any pretreatment standard under this section, the Administrator shall designate the category or categories of sources to which such standard shall apply.

(4) Nothing in this subsection shall affect any pretreatment requirement established by any State or local law not in conflict with any pretreatment standard established under this subsection.

(c) In order to insure that any source introducing pollutants into a publicly owned treatment works, which source would be a new source subject to section 306 if it were to discharge pollutants, will not cause a violation of the effluent limitations established for any such treatment works, the Administrator shall promulgate pretreatment standards for the category of such sources simultaneously with the promulgation of standards of performance under section 306 for the equivalent category of new sources. Such pretreatment standards shall prevent the discharge of any pollutant into such treatment works, which pollutant may interfere with, pass through, or otherwise be incompatible with such works.

(d) After the effective date of any effluent standard or prohibition or pretreatment standard promulgated under this section, it shall be unlawful for any owner or operator of any source to operate any source in violation of any such effluent standard or prohibition or pretreatment standard.

(e) COMPLIANCE DATE EXTENSION FOR INNOVATIVE PRETREATMENT SYSTEMS.—In the case of any existing facility that proposes to comply with the pretreatment standards of subsection (b) of this section by applying an innovative system that meets the requirements

of section 301(k) of this Act, the owner or operator of the publicly owned treatment works receiving the treated effluent from such facility may extend the date for compliance with the applicable pretreatment standard established under this section for a period not to exceed 2 years—

(1) if the Administrator determines that the innovative system has the potential for industrywide application, and

(2) if the Administrator (or the State in consultation with the Administrator, in any case in which the State has a pretreatment program approved by the Administrator)—

(A) determines that the proposed extension will not cause the publicly owned treatment works to be in violation of its permit under section 402 or of section 405 or to contribute to such a violation, and

(B) concurs with the proposed extension.

INSPECTIONS, MONITORING, AND ENTRY

SEC. 308. (a) Whenever required to carry out the objective of this Act, including but not limited to (1) developing or assisting in the development of any effluent limitation, or other limitation, prohibition, or effluent standard, pretreatment standard, or standard of performance under this Act; (2) determining whether any person is in violation of any such effluent limitation, or other limitation, prohibition or effluent standard, pretreatment standard, or standard of performance; (3) any requirement established under this section; or (4) carrying out section 305, 311, 402, 404 (relating to State permit programs), *405* and 504 of this Act—

(A) the Administrator shall require the owner or operator of any point source to (i) establish and maintain such records, (ii) make such reports, (iii) install, use, and maintain such monitoring equipment or methods (including where appropriate, biological monitoring methods), (iv) sample such effluents (in accordance with such methods, at such locations, at such intervals, and in such manner as the Administrator shall prescribe), and (v) provide such other information as he may reasonably require; and

(B) the Administrator or his authorized representative *(including an authorized contractor acting as a representative of the Administrator),* upon presentation of his credentials—

(i) shall have a right of entry to, upon, or through any premises in which an elluent source is located in or which any records required to be maintained under clause (A) of this subsection are located, and

(ii) may at reasonable times have access to any copy any records, inspect any monitoring equipment or method required under clause (A), and sample any effluents which the owner or operator of such sources is required to sample under such clause.

(b) Any records, reports, or information obtained under this section (1) shall, in the case of effluent data, be related to any applicable effluent limitations, toxic pretreatment, or new source performance standards, and (2) shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that records, reports, or information, or particular part thereof (other than effluent data), to which the Administrator has access under this section, if made public would divulge methods or processes entitled to protection as trade secrets of such person, the Administrator shall consider such record, report, or information, or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18 of the United States Code[,]. [except that such record, report, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act.] *Any authorized representative of the Administrator (including an authorized contractor acting as a representative of the Administrator) who knowingly or willfully publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law any information which is required to be considered confidential under this subsection shall be fined not more than $1,000 or imprisoned not more than 1 year, or both. Nothing in this subsection shall prohibit the Administrator or an authorized representative of the Administrator (including any authorized contractor acting as a representative of the Administrator) from disclosing records, reports, or information to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act.*

(c) Each State may develop and submit to the Administrator procedures under State law for inspection, monitoring, and entry with respect to point sources located in such State. If the Administrator finds that the procedures and the law of any State relating to inspection, monitoring, and entry are applicable to at least the same extent as those required by this section, such State is authorized to apply and enforce its procedures for inspection, monitoring, and entry with respect to point sources located in such State (except with respect to point sources owned or operated by the United States).

(d) ACCESS BY CONGRESS.—Notwithstanding any limitation contained in this section or any other provision of law, all information reported to or otherwise obtained by the Administrator (or any representative of the Administrator) under this Act shall be made available, upon written request of any duly authorized committee of Congress, to such committee.

FEDERAL ENFORCEMENT

SEC. 309. (a)(1) Whenever, on the basis of any information available to him, the Administrator finds that any person is in violation of any condition or limitation which implements section 301, 302, 306, 307, 308, 318, or 405 of this Act in a permit issued by a State under an approved permit program under section 402 or 404 of this Act, he shall proceed under his authority in paragraph (3) of this subsection or he shall notify the person in alleged violation and such State or such finding. If beyond the thirtieth day after the Administrator's notification the State has not commenced appropriate enforcement action, the Administrator shall issue an order requiring such person to comply with such condition or limitation or shall bring a civil action in accordance with subsection (b) of this section.

(2) Whenever, on the the basis of information available to him, the Administrator finds that violations of permit conditions or limitations as set forth in paragraph (1) of this subsection are so widespread that such violations appear to result from a failure of the State to enforce such permit conditions or limitations effectively, he shall so notify the State. If the Administrator finds such failure extends beyond the thirtieth day after such notice, he shall give public notice of such finding. During the period beginning with such public notice and lending when such State satisfies the Administrator that it will enforce such conditions and limitations (hereafter referred to in this section as the period of "federally assumed enforcement"), except where an extension has been granted under paragraph (5)(B) of this subsection, the Administrator shall enforce any permit condition or limitation with respect to any person—

(A) by issuing an order to comply with such condition or limitation, or

(B) by bringing a civil action under subsection (b) of this section.

(3) Whenever on the basis of any information available to him the Administrator finds that any person is in violation of section 301, 302, 306, 307, 308, 318, or 405 of this Act, or is in violation if any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by him or by a State or in a permit issued under section 404 of this Act by a State, he shall issue an order requiring such person to comply with such section or requirement, or he shall bring a civil action in accordance with subsection (b) of this section.

(4) A copy of any order issued under this subsection shall be sent immediately by the Administrator to the State in which the violation occurs and other affected States. In any case in which an order under this subsection (or notice to a violator under paragraph (1) of this subsection) is issued to a corporation, copy of such order (or notice) shall be served on any appropriate corporate officers. An order issued under this subsection relating to a violation of section 308 of this Act shall not take effect until the person to whom it is issued has had an opportunity to confer with the Administrator concerning the alleged violation.

(5)(A) Any order issued under this subsection shall be by personal service, shall state with reasonable specificity the nature of the violation, and shall specify a time for compliance not to exceed thirty days in the case of a violation of an interim compliance schedule or operation and maintancnce requirement and not to exceed a time the Administrator determines to be reasonable in the case of a violation of a final deadline, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

(B) The Administrator may, if he determines (i) that any person who is a violator of, or any person who is otherwise not in compliance with, the time requirements under this Act or in any permit issued under this Act, has acted in good faith, and has made a commitment (in the form of contracts or other securities) of necessary resources to achieve compliance by the earliest possible date after July 1, 1977, but not later than April 1, 1979; (ii) that any extension under this provision will not result in the imposition of any additional controls on any other point or nonpoint source; (iii) that an application for a permit under section 402 of this Act was filed for such person prior to December 31, 1974; and (iv) that the facilities necessary for compliance with such requirements are under construction, grant an extension of the date referred to in section 301(b)(1)(A) to a date which will achieve compliance at the earliest time possible but not later than April 1, 1979.

(6) Whenever, on the basis of information available to him, the Administrator finds (A) that any person is in violation of section 301(b)(1) (A) or (C) of this Act, (B) that such person cannot meet the requirements for a time extension under section 301(i)(2) of this Act, and (C) that the most expeditious and appropriate means of compliance with this Act by such person is to discharge into a publicly owned treatment works, then, upon request of such person, the Administrator may issue an order requiring such person to comply with this Act at the earliest date practicable, but not later than July 1, 1983, by discharging into a publicly owned treatment works if such works concur with such order. Such order shall include a schedule of compliance.

(b) The Administrator is authorized to commence a civil action for appropriate relief, including a permanent or temporary injunction, for any violation for which he is authorized to issue a compliance order under subsection (a) of this section. Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to restrain such violation and to require compliance. Notice of the commencement of such action shall be given immediately to the appropriate State.

[(c)(1) Any person who willfully or negligently violates section 301, 302, 306, 307, or 308 of this Act, or any permit condition or limitation implementing any of such actions in a permit issued under section 402 of this Act by the Administrator or by a State, or in a permit issued under section 404 of this Act by a State shall be punished by a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than one year, or by both. If the conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment for not more than two years, or by both.

[(2) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this Act, shall upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or by both.

[(3) For the purposes of this subsection, the term "person" shall mean, in addition to the definition contained in section 502(5) of this Act, any responsible corporate officer.]

(c) CRIMINAL PENALTIES.—

(1) NEGLIGENT VIOLATIONS.—Any person who—

(A) negligently violates section 301, 302, 306, 307, 308, 318, or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator or by a State, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act or in a permit issued under section 404 of this Act by the Secretary of the Army or by a State; or

(B) negligently introduces into a sewer system or into a publicly owned treatment works any pollutant or hazardous substance which such person knew or reasonably should have known could cause personal injury or property damage or, other than in compliance with all applicable Federal, State, or local requirements or permits, which causes such treatment works to violate any effluent limitation or condition in any permit issued to the treatment works under section 402 of this Act by the Administrator or a State;

shall be punished by a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment of not more than 2 years, or by both.

(2) KNOWING VIOLATIONS.—Any person who—

(A) knowingly violates section 301, 302, 306, 307, 308, 318, or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator or by a State, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act or in a permit issued under section 404 of this Act by the Secretary of the Army or by a State; or

(B) knowingly introduces into a sewer system or into a publicly owned treatment works any pollutant or hazardous substance which such person knew or reasonably should have known could cause personal injury or property damage or, other than in compliance with all applicable Federal, State, or local requirements or permits, which causes such treatment works to violate any effluent limitation or condition in a permit issued to the treatment works under section 402 of this Act by the Administrator or a State;

shall be punished by a fine of not less than $5,000 nor more than $50,000 per day of violation, or by imprisonment for not more than 3 years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $100,000 per day of violation, or by imprisonment of not more than 6 years, or by both.

(3) KNOWING ENDANGERMENT.—

(A) GENERAL RULE.—*Any person who knowingly violates section 301, 302, 303, 306, 307, 308, 318, or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator or by a State, or in a permit issued under section 404 of this Act by the Secretary of the Army or by a State, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than $250,000 or imprisonment of not more than 15 years, or both. A person which is an organization shall, upon conviction of violating this subparagraph, be subject to a fine of not more than $1,000,000. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both fine and imprisonment.*

(B) ADDITIONAL PROVISIONS.—*For the purpose of subparagraph (A) of this paragraph—*

(i) in determining whether a defendant who is an individual knew that his conduct placed another person in imminent danger of death or serious bodily injury—

(I) the person is responsible only for actual awareness or actual belief that he possessed; and

(II) knowledge possessed by a person other than the defendant but not by the defendant himself may not be attributed to the defendant;

except that in proving the defendant's possession of actual knowledge, circumstantial evidence may be used, including evidence that the defendant took affirmative steps to shield himself from relevant information;

(ii) it is an affirmative defense to prosecution that the conduct charged was consented to by the person endangered and that the danger and conduct charged were reasonably foreseeable hazards of—

(I) an occupation, a business, or a profession; or

(II) medical treatment or medical or scientific experimentation conducted by professionally approved methods and such other person had been made aware of the risks involved prior to giving consent;

and such defense may be established under this subparagraph by a preponderance of the evidence;

(iii) the term "organization" means a legal entity, other than a government, established or organized for any purpose, and such term includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, trust, society, union, or any other association of persons; and

(iv) the term "serious bodily injury" means bodily injury which involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment

of the function of a bodily member, organ, or mental faculty.

(4) False statements.—Any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under this Act, shall upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 2 years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or by both.

(5) Treatment of single operational upset.—For purposes of this subsection, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

(6) Responsible corporate officer as "person".—For the purpose of this subsection, the term "person" means, in addition to the definition contained in section 502(5) of this Act, any responsible corporate officer.

(7) Hazardous substance defined.—For the purpose of this subsection, the term "hazardous substance" means (A) any substance designated pursuant to section 311(b)(2)(A) of this Act, (B) any element, compound, mixture, solution, or substance designated pursuant to section 102 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, (C) any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Act of Congress), (D) any toxic pollutant listed under section 307(a) of this Act, and (E) any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 7 of the Toxic Substances Control Act.

(d) Any person who violates section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator, or by a State, or in a permit issued under section 404 of this Act by a State, *or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act,*[11] and any person who violates any order issued by the Administrator under subsection (a) of this section, shall be subject to a civil penalty, not to exceed [$10,000 per day of such violation] *$25,000 per day for each violation.*[12]

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[11] Public Law 100-4.

Sec. 313. (a)(1) * * *

(2) Savings Provision.—No State shall be required before July 1, 1988, to modify a permit program approved or submitted under section 402 of the Federal Water Pollution Control Act as a result of the amendment made by paragraph (1).

In determining the amount of a civil penalty the court shall consider the seriousness of the violation or violations, the economic benefit (if any) resulting from the violation, any history of such violations, any good-faith efforts to comply with the applicable requirements, the economic impact of the penalty on the violator, and such other matters as justice many require. For purposes of this subsection, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall treated as a single violation.

(e) Whenever a municipality is a party to a civil action brought by the United States under this section, the State in which such municipality is located shall be joined as a party. Such State shall be liable for payment of any judgment, or any expenses incurred as a result of complying with any judgment, entered against the municipality in such action to the extent that the laws of that State prevent the municipality from raising revenues needed to comply with such judgment.

(f) Whenever, on the basis of any information available to him, the Administrator finds that an owner or operator of any source is introducing a pollutant into a treatment works in violation of subsection (d) of section 307, the Administrator may notify the owner or operator of such treatment works and the State of such violation. If the owner or operator of the treatment works does not commence appropriate enforcement action within 30 days of the date of such notification, the Administrator may commence a civil action for appropriate relief, including but not limited to, a permanent or temporary injunction, against the owner or operator of such treatment works. In any such civil action the Administrator shall join the owner or operator of such source as a party to the action. Such action shall be brought in the district court of the United States in the district in which the treatment works is located. Such court shall have jurisdiction to restrain such violation and to require the owner or operator of the treatment works and the owner or operator of the source to take such action as may be necessary to come into compliance with this Act. Notice of commencement of any such action shall be given the State. Nothing in this subsection shall be construed to limit or prohibit any other authority the Administrator may have under this Act.

(g) ADMINISTRATIVE PENALTIES.—

(1) VIOLATIONS.—Whenever on the basis of any information available—

(A) the Administrator finds that any person has violated section 301, 302, 306, 307, 308, 318, or 405 of this Act, or has violated any permit condition or limitation implement-

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[12] Public Law 100-4.
SEC. 313. (b)(1) * * *
(2) INCREASED PENALTIES NOT REQUIRED UNDER STATE PROGRAMS.—The Federal Water Pollution Control Act shall not be construed as requiring a State to have a civil penalty for violations described in section 309(d) of such Act which has the same monetary amount as the civil penalty established by such section, as amended by paragraph (1). Nothing in this paragraph shall affect the Administrator's authority to establish or adjust by regulation a minimum acceptable State civil penalty.

ing any of such sections in a permit issued under section 402 of this Act by the Administrator or by a State, or in a permit issued under section 404 by a State, or

(B) the Secretary of the Army (hereinafter in this subsection referred to as the "Secretary") finds that any person has violated any permit condition or limitation in a permit issued under section 404 of this Act by the Secretary,

the Administrator or Secretary, as the case may be, may, after consultation with the State in which the violation occurs, assess a class I civil penalty or a class II civil penalty under this subsection.

(2) CLASSES OF PENALTIES.—

(A) CLASS I.—The amount of a class I civil penalty under paragraph (1) may not exceed $10,000 per violation, except that the maximum amount of any class I civil penalty under this subparagraph shall not exceed $25,000. Before issuing an order assessing a civil penalty under this subparagraph, the Administrator or the Secretary, as the case may be, shall give to the person to be assessed such penalty written notice of the Administrator's or Secretary's proposal to issue such order and the opportunity to request, within 30 days of the date the notice is received by such person, a hearing on the proposed order. Such hearing shall not be subject to section 554 or 556 of title 5, United States Code, but shall provide a reasonable opportunity to be heard and to present evidence.

(B) CLASS II.—The amount of a class II civil penalty under paragraph (1) may not exceed $10,000 per day for each day during which the violation continues; except that the maximum amount of any class II civil penalty under this subparagraph shall not exceed $125,000. Except as otherwise provided in this subsection, a class II civil penalty shall be assessed and collected in the same manner, and subject to the same provisions, as in the case of civil penalties assessed and collected after notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code. The Administrator and the Secretary may issue rules for discovery procedures for hearings under this subparagraph.

(3) DETERMINING AMOUNT.—In determining the amount of any penalty assessed under this subsection, the Administrator or the Secretary, as the case may be, shall take into account the nature, circumstances, extent and gravity of the violation, or violations, and, with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings (if any) resulting from the violation, and such other matters as justice may require. For purposes of this subsection, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

(4) RIGHTS OF INTERESTED PERSONS.—

(A) PUBLIC NOTICE.—Before issuing an order assessing a civil penalty under this subsection the Administrator or Secretary, as the case may be, shall provide public notice of

and reasonable opportunity to comment on the proposed issuance of such order.

(B) Presentation of evidence.—Any person who comments on a proposed assessment of a penalty under this subsection shall be given notice of any hearing held under this subsection and of the order assessing such penalty. In any hearing held under this subsection, such person shall have a reasonable opportunity to be heard and to present evidence.

(C) Rights of interested persons to a hearing.—If no hearing is held under paragraph (2) before issuance of an order assessing a penalty under this subsection, any person who commented on the proposed assessment may petition, within 30 days after the issuance of such order, the Administrator or Secretary, as the case may be, to set aside such order and to provide a hearing on the penalty. If the evidence presented by the petitioner in support of the petition is material and was not considered in the issuance of the order, the Administrator or Secretary shall immediately set aside such order and provide a hearing in accordance with paragraph (2)(A) in the case of a class I civil penalty and paragraph (2)(B) in the case of a class II civil penalty. If the Administrator or Secretary denies a hearing under this subparagraph, the Administrator or Secretary shall provide to the petitioner, and publish in the Federal Register, notice of and the reasons for such denial.

(5) Finality of order.—An order issued under this subsection shall become final 30 days after its issuance unless a petition for judicial review is filed under paragraph (8) or a hearing is requested under paragraph (4)(C). If such a hearing is denied, such order shall become final 30 days after such denial.

(6) Effect of order.—

(A) Limitation on actions under other sections.—Action taken by the Administrator or the Secretary, as the case may be, under this subsection shall not affect or limit the Administrator's or Secretary's authority to enforce any provision of this Act; except that any violation—

(i) with respect to which the Administrator or the Secretary has commenced and is diligently prosecuting an action under this subsection,

(ii) with respect to which a State has commenced and is diligently prosecuting an action under a State law comparable to this subsection, or

(iii) for which the Administrator, the Secretary, or the State has issued a final order not subject to further judicial review and the violator has paid a penalty assessed under this subsection, or such comparable State law, as the case may be,

shall not be the subject of a civil penalty action under subsection (d) of this section or section 311(b) or section 505 of this Act.

(B) Applicability of limitation with respect to citizen suits.—The limitations contained in subparagraph (A)

on civil penalty actions under section 505 of this Act shall not apply with respect to any violation for which—

(i) a civil action under section 505(a)(1) of this Act has been filed prior to commencement of an action under this subsection, or

(ii) notice of an alleged violation of section 505(a)(1) of this Act has been given in accordance with section 505(b)(1)(A) prior to commencement of an action under this subsection and an action under section 505(a)(1) with respect to such alleged violation is filed before the 120th day after the date on which such notice is given.

(7) EFFECT OF ACTION ON COMPLIANCE.—No action by the Administrator or the Secretary under this subsection shall affect any person's obligation to comply with any section of this Act or with the terms and conditions of any permit issued pursuant to section 402 or 404 of this Act.

(8) JUDICIAL REVIEW.—Any person against whom a civil penalty is assessed under this subsection or who commented on the proposed assessment of such penalty in accordance with paragraph (4) may obtain review of such assessment—

(A) in the case of assessment of a class I civil penalty, in the United States District Court for the District of Columbia or in the district in which the violation is alleged to have occurred, or

(B) in the case of assessment of a class II civil penalty, in United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business,

by filing a notice of appeal in such court within the 30-day period beginning on the date the civil penalty order is issued and by simultaneously sending a copy of such notice by certified mail to the Administrator or the Secretary, as the case may be, and the Attorney General. The Administrator or the Secretary shall promptly file in such court a certified copy of the record on which the order was issued. Such court shall not set aside or remand such order unless there is not substantial evidence in the record, taken as a whole, to support the finding of a violation or unless the Administrator's or Secretary's assessment of the penalty constitutes an abuse of discretion and shall not impose additional civil penalties for the same violation unless the Administrator's or Secretary's assessment of the penalty constitutes an abuse of discretion.

(9) COLLECTION.—If any person fails to pay an assessment of a civil penalty—

(A) after the order making the assessment has become final, or

(B) after a court in an action brought under paragraph (8) has entered a final judgment in favor of the Administrator or the Secretary, as the case may be,

the Administrator or the Secretary shall request the Attorney General to bring a civil action in an appropriate district court to recover the amount assessed (plus interest at currently prevailing rates from the date of the final order or the date of the final judgment, as the case may be). In such an action, the va-

lidity, amount, and appropriateness of such penalty shall not be subject to review. Any person who fails to pay on a timely basis the amount of an assessment of a civil penalty as described in the first sentence of this paragraph shall be required to pay, in addition to such amount and interest, attorneys fees and costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to 20 percent of the aggregate amount of such person's penalties and nonpayment penalties which are unpaid as of the beginning of such quarter.

(10) SUBPOENAS.—The Administrator or Secretary, as the case may be, may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, or documents in connection with hearings under this subsection. In case of contumacy or refusal to obey a subpoena issued pursuant to this paragraph and served upon any person, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the administrative law judge or to appear and produce documents before the administrative law judge, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(11) PROTECTION OF EXISTING PROCEDURES.—Nothing in this subsection shall change the procedures existing on the day before the date of the enactment of the Water Quality Act of 1987 under other subsections of this section for issuance and enforcement of orders by the Administrator.

INTERNATIONAL POLLUTION ABATEMENT

SEC. 310. (a) Whenever the Administrator, upon receipts of reports, surveys, or studies from any duly constituted international agency, has reason to believe that pollution is occurring which endangers the health or welfare of persons in a foreign country, and the Secretary of State requests him to abate such pollution, he shall give formal notification thereof to the State water pollution control agency of the State or States in which such discharge or discharges originate and to the appropriate interstate agency, if any. He shall also promptly call such a hearing, if he believes that such pollution is occurring in sufficient quantity to warrant such action, and if such foreign country has given the United States essentially the same rights with respect to the prevention and control of pollution occurring in that country as is given that country by this subsection. The Administrator, through the Secretary of State, shall invite the foreign country which may be adversely affected by the pollution to attend and participate in the hearing, and the representative of such country shall, for the purpose of the hearing and any further proceeding resulting from such hearing, have all the rights of a State water pollution control agency. Nothing in this subsection shall be construed to modify, amend, repeal, or otherwise affect the provisions of the 1099 Boundary Waters

Treaty between Canada and the United States or the Water Utilization Treaty of 1944 between Mexico and the United States (59 Stat. 1219), relative to the control and abatement of pollution in waters covered by those treaties.

(b) The calling of a hearing under this section shall not be construed by the courts, the Administrator, or any person as limiting, modifying, or otherwise affecting the functions and responsibilities of the Administrator under this section to establish and enforce water quality requirements under this Act.

(c) The Administrator shall publish in the Federal Register a notice of a public hearing before a hearing board of five or more persons appointed by the Administrator. A majority of the members of the board and the chairman who shall be designated by the Administrator shall not be officers or employees of Federal, State, or local governments. On the basis of the evidence presented at such hearing, the board shall within sixty days after completion of the hearing make findings of fact as to whether or not such pollution is occurring and shall thereupon by decision, incorporating its findings therein, make such recommendations to abate the pollution as may be appropriate and shall transmit such decision and the record of the hearings to the Administrator. All such decisions shall be public. Upon receipt of such decision, the Administrator shall promptly implement the board's decision in accordance with the provisions of this Act.

(d) In connection with any hearing called under this subsection, the board is authorized to require any person whose alleged activities result in discharges causing or contributing to pollution to file with it in such forms as it may prescribe, a report based on existing data, furnishing such information as may reasonably be required as to the character, kind, and quantity of such discharges and the use of facilities or other means to prevent or reduce such discharges by the person filing such a report. Such report shall be made under oath or otherwise, as the board may prescribe, and shall be filed with the board within such reasonable period as it may prescribe, unless additional time is granted by it. Upon a showing satisfactory to the board by the person filing such report that such report or portion thereof (other than effluent data), to which the Administrator has access under this section, if made public would divulge trade secrets or secret processes of such person, the board shall consider such report or portion thereof confidential for the purposes of section 1905 of title 18 of the United States Code. If any person required to file any report under this paragraph shall fail to do so within the time fixed by the board for filing the same, and such failure shall continue for thirty days after notice of such default, such person shall forfeit to the United States the sum of $1,000 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States in the district court of the United States where such person has his principal office or in any district in which he does business. The Administrator may upon application therefor remit or mitigate any forfeiture provided for under this subsection.

(e) Board members, other than officers or employees of Federal, State, or local governments, shall be for each day (including traveltime) during which they are performing board business, entitled to receive compensation at a rate fixed by the Administrator but not in excess of the maximum rate of pay for grade GS–18, as provided in the General Schedule under section 5332 of title 5 of the United States Code, and shall, notwithstanding the limitations of sections 5703 and 5704 of title 5 of the United States Code, be fully reimbursed for travel, subsistence, and related expenses.

(f) When any such recommendation adopted by the Administrator invovles the institution of enforcement proceedings against any person to obtain the abatement of pollution subject to such recommendation, the Administrator shall institute such proceedings if he believes that the evidence warrants such proceedings. The district court of the United States shall consider and determine de novo all relevant issues, but shall receive in evidence the record of the proceedings before the conference or hearing board. The court shall have jurisdiction to enter such judgment and orders enforcing such judgment as it deems appropriate or to remand such proceedings to the Administrator for such further action as it may direct.

OIL AND HAZARDOUS SUBSTANCE LIABILITY

SEC. 311. (a) For the purpose of this section, the term—

(1) "oil" means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil;

(2) "discharge" includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping, but excludes (A) discharges in compliance with a permit under section 402 of this Act, (B) discharges resulting from circumstances identified and reviewed and made a part of the public record with respect to a permit issued or modified under section 402 of the Act, and subject to a condition in such permit, and (C) continuous or anticipated intermittent discharges from a point source, identified in a permit or permit application under section 402 of this Act, which are caused by events occurring within the scope or revelant operating or treatment systems.

(3) "vessel" means every description of watercraft or other artifical contrivance used, or capable of being used, as a means of transportation on water other than a public vessel;

(4) "public vessel" means a vessel owned or bareboard-chartered and operated by the United States, or by a State or political subdivision thereof, or by a foreign nation, except when such vessel is engaged in commerce;

(5) "United States" means the States, the District of Columbia, the Commonwealth of Puerto Rico, [the Canal Zone,] *the Commonwealth of the Northern Mariana Islands,* Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands;

(6) "owner or operator" means (A) in the case of a vessel, any person owning, operating, or chartering by demise, such vessel, and (B) in the case of an onshore facility, and an offshore facil-

ity, any person owning or operating such onshore facility or offshore facility, and (C) in the case of any abandoned offshore facility, the person who owned or operated such facility immediately prior to such abandonment:

(7) "person" includes an individual, firm, corporation, association, and a partnership;

(8) "remove" or "removal" refers to removal of the oil or hazardous substances from the water and shorelines or the taking of such other actions as may be necessary to minimize or mitigate damage to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches;

(9) "contiguous zone" means the entire zone established or to be established by the United States under article 24 of the Convention on the Territorial Sea and the Contiguous Zone;

(10) "onshore facility" means any facility (including, but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under, any land within the United States other than submerged land;

(11) "offshore facility" means any facility of any kind located in, on, or under, any of the navigable waters of the United States, and any facility of any kind which is subject to the jurisdiction of the United States and is located in, on, or under any other waters, other than a vessel or a public vessel;

(12) "act of God" means an act occasioned by an unanticipated grave natural disaster;

(13) "barrel" means 42 United States gallons at 60 degrees Fahrenheit;

(14) "harzardous substance" means any substance designated pursuant to subsection (b)(2) of this section;

(15) "inland oil barge" means a non-self-propelled vessel carrying oil in bulk as cargo and certificate to operate only in the inland waters of the United States, while operating in such waters;

(16) "inland waters of the United States" means those waters of the United States lying inside the baseline from which the territorial sea is measured and those waters outside such baseline which are a part of the Gulf Intracoastal Waterway;

(17) "Otherwise subject to the jurisdiction of the United States" means subject to the jurisdiction of the United States by virtue of United States citizenship, United States vessel documentation or numbering, or as provided for by international agreement to which the United States is a party.

(b)(1) The Congress hereby declares that it is the policy of the United States that there should be no discharges of oil or hazardous substances into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone; or in connection with activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976.

(2)(A) The Administrator shall develop, promulgate, and revises a may be appropriate, regulations designating as hazardous substances, other than oil as defined in this section, such elements and compounds which, when discharged in any quantity into or upon the navigable waters of the United States or adjoining shorelines or the waters of the contiguous zone or in connection with activities under the Outer Continential Shelf Lands Act of the Deepwater Port Act of 1974, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976), present an imminent and substantial danger to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, shorelines, and beaches.

(B) The Administrator shall within 18 months after the date of enactment of this paragraph, conduct a study and report to the Congress on methods, mechanisms, and procedures to create incentives to achieve a higher standard of care in all aspects of the management and movement of hazardous substances on the part of owners, operators, or persons in charge of onshore facilities, offshore facilities, or vessels. The Administrator shall include in such study (1) limits of liability, (2) liability for third party damages, (3) penalties and fees, (4) spill prevention plans, (5) current practices in the insurance and banking industries, and (6) whether the penalty enacted in subclause (bb) of clause (iii) of subparagraph (B) of subsection (b)(2) of section 311 of Public Law 92-500 should be enacted.

(3) The discharge of oil or hazardous substances (i) into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone, or (ii) in connection with activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976), in such quantities as may be harmful as determined by the President under paragraph (4) of this subsection, is prohibited, except (A) in the case of such discharges of oil into the waters of the contiguous zone or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976), where permitted under the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as amended, and (B) where permitted in quantities and at times and locations or under such circumstances or conditions as the President may, by regulation, determine not to be harmful. Any regulations issued under this subsection shall be consistent with maritime safety and with marine and navigation laws and regulations and applicable water quality standards.

(4) The President shall by regulation determine for the purposes of this section those quantities of oil and any hazardous substances the discharges of which may be harmful to the public health or welfare of the United States, including but not limited to fish, shellfish, wildlife, and public and private property, shorelines, and beaches.

(5) Any person in charge of a vessel or of an onshore facility or an offshore facility shall, as soon as he has knowledge of any discharge of oil or a hazardous substance from such vessel or facility in violation of paragraph (3) of this subsection, immediately notify the appropriate agency of the United States Government of such discharge. Any such person (A) in charge of a vessel from which oil or a hazardous substance is discharged in violation of paragraph (3)(i) of this subsection, or (B) in charge of a vessel from which oil or a hazardous substance is discharged in violation of paragraph (3)(ii) of this subsection and who is otherwise subject to the jurisdiction of the United States at the time of the discharge, or (C) in charge of an onshore facility or an offshore facility, who fails to notify immediately such agency of such discharge shall, upon conviction, be fined not more than $10,000, or imprisoned for not more than one year, or both. Notification received pursuant to this paragraph or information obtained by the exploitation of such notification shall not be used against any such person in any criminal case, except a prosecution for perjury or for giving a false statement.

(6)(A) Any owner, operator, or person in charge of any onshore facility or offshore facility from which oil or a hazardous substance is discharged in violation of paragraph (3) of this subsection shall be assessed a civil penalty by the Secretary of the department in which the Coast Guard is operating of not more than $5,000 for each offense. Any owner, operator, or person in charge of any vessel from which oil or a hazardous substance is discharged in violation of paragraph (3)(i) of this subsection, and any owner, operator, or person in charge of a vessel from which oil or a hazardous substance is discharged in violation of paragraph (3)(ii) who is otherwise subject to the jurisdiction of the United States at the time of discharge, shall be assessed a civil penalty by the Secretary of the department in which the Coast Guard is operating of not more than $5,000 for each offense. No penalty shall be assessed unless the owner or operator charged shall have been given notice and oportunity for a hearing on such charge. Each violation is a separate offense. Any such civil penalty may be compromised by such Secretary. In determining the amount of the penalty, or the amount agreed upon in compromise, the appropriateness of such penalty to the size of the business of the owner or operator charged, the effect on the owner or operator's ability to continue in business, and the gravity of the violation, shall be considered by such Secretary. The Secretary of the Treasury shall withhold at the request of such Secretary the clearance required by section 4197 of the Revised Statutes of the United States, as amended (46 U.S.C. 91), of any vessel the owner or operator of which is subject to the foregoing penalty. Clearance may be granted in such cases upon the filing of a bond or other surety satisfactory to such Secretary.

(B) The Administrator, taking into account the gravity of the offense, and the standard of care manifested by the owner, operator, or person in charge, may commence a civil action against any such person subject to the penalty under subparagraph (A) of this paragraph to impose a penalty based on consideration of the size of the business of the owner or operator, the effect on the ability of the owner or operator to continue in business, the gravity of the violation, and the nature, extent, and degree of success of any efforts made by the owner, operator, or person in charge to minimize or mitigate the effects of such discharge. The amount of such penalty shall not exceed $50,000, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, operator, or person in charge, such penalty shall not exceed $250,000. Each violation is a separate offense. Any action under this subparagraph may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to assess such penalty. No action may be commenced under this clause where a penalty has been assessed under clause (A) of this paragraph.

(C) In addition to establishing a penalty for the discharge of a hazardous substance, the Administrator may act to mitigate the damage to the public health or welfare caused by such discharge. The cost of such mitigation shall be deemed a cost incurred under subsection (c) of this section for the removal of such substance by the United States Government.

(D) Any costs of removal incurred in connection with a discharge excluded by subsection (a)(2)(C) of this section shall be recoverable from the owner or operator of the source of the discharge in an action brought under section 309(b) of this Act.

(E) Civil penalties shall not be assessed under both this section and section 309 for the same discharge.

(c)(1) Whenever any oil or a hazardous substance is discharged, or there is a substantial threat of such discharge, into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone, or in connection with activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976) the President is authorized to act to remove or arrange for the removal of such oil or substance at any time, unless he determines such removal will be done properly by the owner or operator of the vessel, onshore facility, or offshore facility, from which the discharge occurs.

(2) Within sixty days after the effective date of this section, the President shall prepare and publish a National Contingency Plan for removal of oil and hazardous substances, pursuant to this subsection. Such National Contingency Plan shall provide for efficient, coordinated, and effective action to minimize damage from oil and hazardous substance discharges, including containment, dispersal, and removal of oil and hazardous substances, and shall include, but not be limited to—

(A) assignment of duties and responsibilities among Federal departments and agencies in coordination with State and local agencies, including, but not limited to, water pollution control, conservation, and port authorities;

(B) identification, procurement, maintenance, and storage of equipment and supplies;

(C) establishment or designation of a strike force consisting of personnel who shall be trained, prepared, and available to provide necessary services to carry out the Plan, including the establishment at major ports, to be determined by the President, of emergency task forces of trained personnel, adequate oil and hazardous substance pollution control equipment and material, and a detailed oil and hazardous substance pollution prevention and removal plan;

(D) a system of surveillance and notice designed to insure earliest possible notice of discharges of oil and hazardous substances and imminent threats of such discharges to the appropriate State and Federal agencies;

(E) establishment of a national center to provide coordination and direction for operations in carrying out the Plan;

(F) procedures and techniques to be employed in identifying, containing, dispersing, and removing oil and hazardous substances;

(G) a schedule, prepared in cooperation with the States, identifying (i) dispersants and other chemicals, if any, that may be used in carrying out the Plan, (ii) the waters in which such dispersants and chemicals may be used, and (iii) the quantities of such dispersant or chemical which can be used safely in such waters, which schedule shall provide in the case of any dispersant, chemical, or waters not specifically identified in such schedule that the President, or his delegate, may, on a case-by-case basis, identify the dispersants and other chemicals which may be used, the waters in which they may be used, and the quantities which can be used safely in such waters; and

(H) a system whereby the State or States affected by a discharge of oil or hazardous substance may act where necessary to remove such discharge and such State or States may be reimbursed from the fund established under subsection (k) of this section for the reasonable costs incurred in such removal.

The President may, from time to time, as he deems advisable revise or otherwise amend the National Contingency Plan. After publication of the National Contingency Plan, the removal of oil and hazardous substances and actions to minimize damage from oil and hazardous substance discharges shall, to the greatest extent possible, be in accordance with the National Contingency Plan.

(d) Whenever a marine disaster in or upon the navigable waters of the United States has created a substantial threat of a pollution hazard to the public health or welfare of the United States, including, but not limited to, fish, shellfish, wildlife and the public and private shorelines and beaches of the United States, because of a discharge, or an imminent discharge, of large quantities of oil, or of a hazardous substance from a vessel the United States may (A) coordinate and direct all public and private efforts directed at the removal or elimination of such threat; and (B) summarily remove, and, if necessary, destroy such vessel by whatever means are available without regard to any provisions of law governing the employment of personnel or the expenditure of appropriated funds. Any expense incurred under this subsection or under the Intervention on the High Seas Act (or the convention defined in section 2(3) thereof) shall be a cost incurred by the United States Government for the purposes of subsection (f) in the removal of oil or hazardous substance.

(e) In addition to any other action taken by a State or local government, when the President determines there is an imminent and substantial threat to the public health or welfare of the United States, including, but not limited to, fish, shellfish, and wildlife and public and, private property shorelines, and beaches within the United States, because of an actual or threatened discharge of oil or hazardous substance into or upon the navigable waters of the United States from an onshore or offshore facility, the President may require the United States attorney of the district in which the threat occurs to secure such relief as may be necessary to abate such threat, and the district courts of the United States shall have jurisdiction to grant such relief as the public interest and the equities of the case may require.

(f)(1) Except where an owner or operator can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any vessel from which oil or a hazardous substance is discharged in violation of subsection (b)(3) of this section shall, notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) for the removal of such oil or substance by the United States Government in an amount not to exceed in the case of an inland oil barge $125 per gross ton of such barge, or $125,000, whichever is greater, and in the case of any other vessel, $150 per gross ton of such vessel (or, for a vessel carrying oil or hazardous substances as cargo, $250,000), whichever is greater, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such cost. Such costs shall constitute a maritime lien on such vessel which may be recovered in an action in rem in the district court of the United States for any district within which any vessel may be found. The United States may also bring an action against the owner or operator of such vessel in any court of competent jurisdiction to recover such costs.

(2) Except where an owner or operator of an onshore facility can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act of omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any such facility from which oil or a hazardous substance is discharged in violation of subsection (b)(3) of this section shall be liable to the United States Government for the actual costs incurred under subsection (c) for the removal of such oil or substance by the United States Government in an amount not to exceed $50,000,000 except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner

or operator shall be liable to the United States Government for the full amount of such costs. The United States may bring an action against the owner or operator of such facility in any court of competent jurisdiction to recover such costs. The Administrator is authorized, by regulation, after consultation with the Secretary of Commerce and the Small Business Administration, to establish reasonable and equitable classifications of those onshore facilities having a total fixed storage capacity of 1,000 barrels or less which he determines because of size, type, and location do not present a substantial risk of the discharge of oil or a hazardous substance in violation of subsection (b)(3) of this section, and apply with respect to such classification differing limits of liability which may be less than the amount contained in this paragraph.

(3) Except where an owner or operator of an offshore facility can prove that a discharge was caused soley by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any such facility from which oil or a hazardous substance is discharged in violation of subsection (b)(3) of this section shall, notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) for the removal of such oil or substance by the United States Government in an amount not to exceed $50,000,000, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such costs. The United States may bring an action against the owner or operator of such a facility in any court of competent jurisdiction to recover such costs.

(4) The costs of removal of oil or a hazardous substance for which the owner or operator of a vessel or onshore or offshore facility is liable under subsection (f) of this section shall include any costs or expenses incurred by the Federal Government or any State government in the restoration or replacement of natural resources damaged or destroyed as a result of a discharge of oil or a hazardous substance in violation of subsection (b) of this section.

(5) The President, or the authorized representative of any State, shall act on behalf of the public as trustee of the natural resources to recover for the costs of replacing or restoring such resources. Sums recovered shall be used to restore, rehabilitate, or acquire the equivalent of such natural resources by the appropriate agencies of the Federal Government, or the State government.

(g) Where the owner or operator of a vessel (other than an inland oil barge) carrying oil or hazardous substances as cargo or an onshore or offshore facility which handles or stores oil or hazardous substances in bulk, from which oil or a hazardous substance is discharged in violation of subsection (b) of this section, alleges that such discharge was caused solely by an act or omission of a third party, such owner or operator shall pay to the United States Government the actual costs incurred under subsection (c) for removal of such oil or substance and shall be entitled by subrogation to all rights of the United States Government to recover such costs from such third party under this subsection. In any case where an owner or operator of a vessel, of an onshore facility, or of an offshore facility, from which oil or a hazardous substance is discharged in violation of subsection (b)(3) of this section, proves that such discharge of oil or hazardous substance was caused solely by an act or omission of a third party, or was caused soley by such an act or omission in combination with an act of God, an act of war, or negligence on the part of the United States Government, such third party shall, notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) for removal of such oil or substance by the United States Government, except where such third party can prove that such discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of another party without regard to whether such act or omission was or was not negligent, or any combination of the foregoing clauses. If such third party was the owner or operator of a vessel which caused the discharge of oil or a hazardous substance in violation of subsection (b)(3) of this section, the liability of such third party under this subsection shall not exceed, in the case of an inland oil barge $125 per gross ton of such barge, $125,000, whichever is greater, and in the case of any other vessel, $150 per gross ton of such vessel (or, for a vessel carrying oil or hazardous substances as cargo, $250,000), whichever is greater. In any other case the liability of such third party shall not exceed the limitation which would have been applicable to the owner or operator of the vessel or the onshore or offshore facility from which the discharge actually occurred if such owner or operator were liable. If the United States can show that the discharge of oil or hazardous substance in violation of subsection (b)(3) of this section was the result of willful negligence or willful misconduct within the privity and knowledge of such third party, such third party shall be liable to the United States Government for the full amount of such removal costs. The United States may bring an action against the third party in any court of competent jurisdiction to recover such removal costs.

(h) The liabilities established by this section shall in no way affect any rights which (1) the owner or operator of a vessel or of an onshore facility or an offshore facility may have against any third party whose acts may in any way have caused or contributed to such discharge, or (2) the United States Government may have against any third party whose actions may in any way have caused or contributed to the discharge of oil or hazardous substance.

(i)(1) In any case where an owner or operator of a vessel or an onshore facility or an offshore facility from which oil or hazardous substance is discharged in violation of subsection (b)(3) of this section acts to remove such oil or substance in accordance with regulations promulgated pursuant to this section, such owner or operator shall be entitled to recover the reasonable costs incurred in such removal upon establishing, in a suit which may be brought against the United States Government in the United States Court of Claims, that such discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United

States Government, or (D) an act or omission of a third party without regard to whether such act or omission was or was not negligent, or of any combination of the foregoing clauses.

(2) The provisions of this subsection shall not apply in any case where liability is established pursuant to the Outer Continental Shelf Lands Act, or the Deepwater Port Act of 1974.

(3) Any amount paid in accordance with a judgment of the United States Court of Claims pursuant to this section shall be paid from the funds established pursuant to subsection (k).

(j)(1) Consistent with the National Contingency Plan required by subsection (c)(2) of this section, as soon as practicable after the effective date of this section, and from time to time thereafter, the President shall issue regulations consistent with maritime safety and with marine and navigation laws (A) establishing methods and procedures for removal of discharged oil and hazardous substances, (B) establishing criteria for the development and implementation of local and regional oil and hazardous substance removal contingency plans, (C) establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil and hazardous substances from vessels and from onshore facilities and offshore facilities, and to contain such discharges, and (D) governing the inspection of vessels carrying cargoes of oil and hazardous substances and the inspection of such cargoes in order to reduce the likelihood of discharges of oil from vessels in violation of this section.

(2) Any owner or operator of a vessel or an onshore facility or an offshore facility and any other person subject to any regulation issued under paragraph (1) of this subsection who fails or refuses to comply with the provisions of any such regulations, shall be liable to a civil penalty of not more than $5,000 for each such violation. This paragraph shall not apply to any owner or operator of any vessel from which oil or a hazardous substance is discharged in violation of paragraph (3)(ii) of subsection (b) unless such owner, operator, or person in charge is otherwise subject to the jurisdiction of the United States. Each violation shall be a separate offense. The President may assess and compromise such penalty. No penalty shall be assessed until the owner, operator, or other person charged shall have been given notice and an opportunity for a hearing on such change. In determining the amount of the penalty, or the amount agreed upon in compromise, the gravity of the violation, and the demonstrated good faith of the owner, operator, or other person charged in attempting to achieve rapid compliance after notificiation of a violation, shall be considered by the President.

(k)(1) There is hereby authorized to be appropriated to a revolving fund to be established in the Treasury such sums as may be necessary to maintain such fund at a level of $35,000,000 to carry out the provisions of subsections (c), (d), (i), and (l) of this section. Any other funds received by the United States under this section shall also be deposited in said fund for such pruposes. All sums appropriated to or deposited in, said fund shall remain available until expended.

(2) The Secretary of Transportation shall notify the Congress whenever the unobligated balance of the fund is less than $12,000,000, and shall include in such notification a recommenda-

tion for a supplemental appropriation relating to the sums that are needed to maintain the fund at the level provided in paragraph (1).

(l) The President is authorized to delegate the administration of this section to the heads of those Federal departments, agencies, and instrumentalities which he determines to be appropriate. Any moneys in the fund established by subsection (k) of this section shall be available to such Federal departments, agencies, and instrumentalities to carry out the provisions of subsections (c) and (i) of this section. Each such department, agency, and instrumentality, in order to avoid duplication of effort, shall, whenever appropriate, utilize the personnel, services, and facilities of other Federal departments, agencies, and instrumentalities.

(m) Anyone authorized by the President to enforce the provisions of this section may, except as to public vessels, (A) board and inspect any vessel upon the navigable waters of the United States or the waters of the contiguous zone, (B) with or without a warrant arrest any person who violates the provisions of this section or any regulation issued thereunder in his presence of view, and (C) execute any warrent or other process issued by an officer or court of competent jurisdiction.

(n) The several district courts of the United States are invested with jurisdiction for any actions, other than actions pursuant to subsection (i)(1), arising under this section. In the case of Guam and the Trust Territory of the Pacific Islands, such actions may be brought in the district court of Guam, and the district court of the Virgin Islands. In the case of American Samoa and the Trust Territory of the Pacific Islands, such actions may be brought in the District Court of the United States for the District of Hawaii and such court shall have jurisdiction of such actions. In the case of the Canal Zone, such actions may be brought in the United States District Court for the District of the Canal Zone.

(o)(1) Nothing in this section shall effect or modify in any way the obligations of any owner or operator of any vessel, or of any owner or operator of any onshore facility or offshore facility to any person or agency under any provision of law for damages to any publicly owned or privately owned property resulting from a discharge of any oil or hazardous substance or from the removal of any such oil or hazardous substance.

(2) Nothing in this section shall be construed as preempting any State or political subdivision thereof from imposing any requirement or liability with respect to the discharge of oil or hazardous substance into any waters within such State.

(3) Nothing in this section shall be construed as affecting or modifying any other existing authority of any Federal department, agency, or instrumentality, relative to onshore or offshore facilities under this Act or any other provision of law, or to affect any State or local law not in conflict with this section.

(p)(1) Any vessel over three hundred gross tons, including any barge of equivalent size, but not including any barge that is not self-propelled and that does not carry oil or hazardous substances as cargo or fuel, using any port or place in the United States or the navigable waters of the United States for any purpose shall establish and maintain under regulations to be prescribed from time to time by the President, evidence of financial responsibility of, in the case of an inland oil barge $125 per gross ton of such barge, or $125,000 whichever is greater, and in the case of any other vessel, $150 per gross ton of such vessel (or, for a vessel carrying oil or hazardous substances as cargo, $250,000), whichever is greater, to meet the liability to the United States which such vessel could be subjected under this section. In cases where an owner or operator owns, operates, or charters more than one such vessel, financial responsibility need only be established to meet the maximum liability to which the largest of such vessels could be subjected. Financial responsibility may be established by any one of, or a combination of, the following methods acceptable to the President: (A) evidence of insurance, (B) surety bonds, (C) qualification as a self-insurer, or (D) other evidence of financial responsibility. Any bond filed shall be issued by a bonding company authorized to do business in the United States.

(2) The provisions of paragraph (1) of this subsection shall be effective April 3, 1971, with respect to oil and one year after the date of enactment of this section with respect to hazardous substances. The President shall delegate the responsibility to carry out the provisions of this subsection to the appropriate agency within sixty days after the date of enactment of this section. Regulations necessary to implement this subsection shall be issued within six months after the date of enactment of this section.

(3) Any claim for costs incurred by such vessel may be brought directly against the insurer or any other person providing evidence of financial responsibility as required under this subsection. In the case of any action pursuant to this subsection such insurer or other person shall be entitled to invoke all rights and defenses which would have been available to the owner or operator if an action had been brought against him by the claimant, and which would have been available to him if an action had been brought against him by the owner or operator.

(4) Any owner or operator of a vessel subject to this subsection, who fails to comply with the provisions of this subsection or any regulation issued thereunder, shall be subject to a fine of not more than $10,000.

(5) The Secretary of the Treasury may refuse the clearance required by section 4197 of the Revised Statutes of the United States, as amended (4 U.S.C. 91), to any vessel subject to this subsection, which does not have evidence furnished by the President that the financial responsibility provisions of paragraph (1) of this subsection have been complied with.

(6) The Secretary of the Department in which the Coast Guard is operated may (A) deny entry to any port or place in the United States or the navigable waters of the United States, to, and (B) detain at the port or place in the United States from which it is about to depart for any other port or place in the United States, any vessel subject to this subsection, which upon request, does not produce evidence furnished by the President that the financial responsibility provisions of paragraph (1) of this subsection have been complied with.

(q) The President is authorized to establish, with respect to any class or category of onshore or offshore facilities, a maximum limit of liability under subsections (f) (2) and (3) of this section of less than $50,000,000, but not less than $8,000,000.

(r) Nothing in this section shall be construed to impose, or authorize the imposition of any limitation on liability under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974.

MARINE SANITATION DEVICES

SEC. 312. (a) For the purpose of this section, the term—

(1) "new vessel" includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the navigable waters, the construction of which is initiated after promulgation of standards and regulations under this section;

(2) "existing vessel" includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the navigable waters, the construction of which is initiated before promulgation of standards and regulations under this section;

(3) "public vessel" means a vessel owned or bareboat chartered and operated by the United States, by a State or political subdivision thereof, or by a foreign nation, except when such vessel is engaged in commerce;

(4) "United States" includes the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Canal Zone, and the Trust Territory of the Pacific Islands;

(5) "marine sanitation device" includes any equipment for installation on board a vessel which is designated to receive, retain, treat, or discharge sewage, and any process to treat such sewage;

(6) "sewage" means human body wastes and the waste from toilets and other receptacles intended to receive or retain body wastes except that, with respect to commercial vessels on the Great Lakes such term shall include graywater;

(7) "manufacture" means any person engaged in the manufacturing, assembling, or importation or marine sanitation devices or of vessels subject to standards and regulations promulgated under this section;

(8) "person" means an individual, partnership, firm, corporation, or association, but does not include an individual on board a public vessel;

(9) "discharge" includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping;

(10) "commercial vessels" means those vessels used in the business of transporting property for compensation or hire, or in transporting property in the business of the owner, lessees, or operator of the vessel;

(11) "graywater" means galley, bath, and shower water.

(b)(1) As soon as possible, after the enactment of this section and subject to the provisions of section 104(j) of this Act, the Administrator, after consultation with the Secretary of the department in which the Coast Guard is operating, after giving appropriate consideration to the economic costs involved, and within the limits of available technology, shall promulgate Federal standards of performance for marine sanitation devices (hereafter in this section referred to as "standards") which shall be designed to prevent the discharge of untreated or inadequately treated sewage into or upon the navigable waters from new vessels and existing vessels, except vessel not equipped with installed toilet facilities. Such standards and standards established under subsection (c)(1)(B) of this section shall be consistent with maritime safety and the marine and navigation laws and regulations and shall be coordinated with the regulations issued under this subsection by the Secretary of the department in which the Coast Guard is operating. The Secretary of the department in which the Coast Guard is operating shall promulgate regulations, which are consistent with standards promulgated under this subsection and subsection (c) of this section and with maritime safety and the marine and navigation laws and regulations governing the design, construction, installation, and operation of any marine sanitation device on board such vessels.

(2) Any existing vessel equipped with a marine sanitation device on the date of promulgation of initial standards and regulations under this section, which device is in compliance with such initial standards and regulations, shall be deemed in compliance with this section until such time as the device is replaced or is found not to be in compliance with such initial standards and regulations.

(c)(1)(A) Initial standards and regulations under this section shall become effective for new vessels two years after promulgation; and for existing vessels five years after promulgation. Revisions of standards and regulations shall be effective upon promulgation, unless another effective date is specified, except that no revision shall take effect before the effective date of the standard or regulation being revised.

(B) The Administrator shall, with respect to commerical vessels on the Great Lakes, establish standards which require at a minimum the equivalent of secondary treatment as defined under section 304(d) of this Act. Such standards and regulations shall take effect for existing vessels after such time as the Administrator determines to be reasonable for the upgrading of marine sanitation devices to attain such standard.

(2) The Secretary of the department in which the Coast Guard is operating with regard to his regulatory authority established by this section, after consultation with the Administrator, may distinguish among classes, types and sizes of vessels as well as between new and existing vessels, and may waive applicability of standards and regulations as necessary or appropriate for such classes, types, and sizes of vessels (including existing vessels equipped with marine sanitation devices on the date of promulgation of the initial standards required by this section), and, upon application, for individual vessels.

(d) The provisions of the section and the standards and regulations promulgated hereunder apply to vessels owned and operated by the United States unless the Secretary of Defense finds that compliance would not be in the interest of national security. With respect to vessels owned and operated by the Department of Defense, regulations under the last sentence of subsection (b)(1) of this section and certifications under subsection (g)(2) of this section shall be promulgated and issued by the Secretary of Defense.

(e) Before the standards and regulations under this section are promulgated, the Administrator and the Secretary of the department in which the Coast Guard is operating shall consult with the Secretary of State; the Secretary of Health, Education, and Wefare; the Secretary of Defense; the Secretary of the Treasury; the Secretary of Commerce; other interested Federal agencies; and the States and industries interested; and otherwise comply with the requirements of section 553 of title 5 of the United States Code.

(f)(1) **[After]** *(A) Except as provided in subparagraph (B), after* the effective date of the initial standards and regulations promulgated under this section, no State or political subdivision thereof shall adopt or enforce any statute or regulation of such State or political subdivision with respect to the design, manufacture, or installation or use of any marine sanitation device on any vessel subject to the provisions of this section.

(B) A State may adopt and enforce a statute or regulation with respect to the design, manufacture, or installation or use of any marine sanitation device on a houseboat, if such statute or regulation is more stringent than the sandards and regulations promulgated under this section. For purposes of this paragraph, the term "houseboat" means a vessel which, for a period of time determined by the State in which the vessel is located, is used primarily as a residence and is not used primarily as a means of transportation.

(2) If after promulgation of the initial standards and regulations and prior to their effective date, a vessel is equipped with a marine sanitation device in compliance with such standards and regulations and the installation and operation of such device is in accordance with such standards and regulations, such standards and regulations shall, for the purposes of paragraph (1) of this subsection, become effective with respect to such vessel on the date of such compliance.

(3) After the effective date of the initial standards and regulations promulgated under this section, if any State determines that the protection and enhancement of the quality of some or all of the waters within such States require greater environmental protection, such State may completely prohibit the discharge from all vessels of any sewage, whether treated or not, into such waters, except that no such prohibition shall apply until the Administrator determines that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for such water to which such prohibition would apply. Upon application of the State, the Administrator shall make such determination within 90 days of the date of such application.

(4)(A) If the Administrator determines upon application by a State that the protection and enhancement of the quality of specified waters within such State requires such a prohibition, he shall by regulation completely prohibit the discharge from a vessel of any sewage (whether treated or not) into such waters.

(B) Upon application by a State, the Administrator shall, by regulation, establish a drinking water intake zone in any waters within such State and prohibit the discharge of sewage from vessels within that zone.

(g)(1) No manufacturer of a marine sanitation device shall sell, offer for sale, or introduce or deliver for introduction in interstate commerce, or import into the United States for sale or resale any marine sanitation device manufactured after the effective date of the standards and regulations promulgated under this section unless such device is in all material respects substantially the same as a test device certified under this subsection.

(2) Upon application of the manufacturer, the Secretary of the department in which the Coast Guard is operating shall so certify a marine sanitation device, if he determines, in accordance with the provisions of this paragraph, that it meets the appropriate standards and regulations promulgated under this section. The Secretary of the department in which the Coast Guard is operating shall test or require such testing of the device in accordance with procedures set forth by the Administrator as to standards of performance and for such other purposes as may be appropriate. If the Secretary of the department in which the Coast Guard is operating determines that the device is satisfactory from the standpoint of safety and any other requirements of maritime law or regulation, and after consideration of the design, installation, operation, material, or other appropriate factors, he shall cerify the device. Any device manufactured by such manufacturer which is in all material respects substantially the same as the certified test device shall be deemed to be in conformity with the appropriate standards and regulations established under this section.

(3) Every manufacturer shall establish and maintain such records, make such reports, and provide such information as the Administrator or the Secretary of the department in which the Coast Guard is operating may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this section and regulations issued thereunder and shall, upon request of an officer or employee duly designated by the Administrator or the Secretary of the department in which the Coast Guard is operating, permit such officer or employee at reasonable times to have access to and copy such records. All information reported to or otherwise obtained by the Administrator or the Secretary of the department in which the Coast Guard is operating or their representatives pursuant to this subsection which contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers or employees concerned with carrying out this section. This paragraph shall not apply to the case of the construction of a vessel by an individual for his own use.

(h) After the effective date of standards and reuglations promulgated under this section, it shall be unalwful—

(1) for the manufacturer of any vessel subject to such standards and reuglations to manufacture for sale, to sell or offer for sale, or to distrubte for sale or resale any such vessel unless it is equipped with a marine sanitation device which is in all material respects substantially the same as the appropriate test device certified pursuant to this section;

(2) for any person, prior to the sale or delivery of a vessel subject to such standards and regulations to the ultimate purchaser, wrongfully to remove or render inoperative any certified marine sanitation device or element of design of such device installed in such vessel;

(3) for any person to fail or refuse to permit access to or copying of records or to fail to make reports or provide information required under this section; and

(4) for a vessel subject to such standards and regulations to operate on the navigable waters of the United States, if such vessel is not equipped with an operable marine sanitation device certified pursuant to this section.

(i) The district courts of the United States shall have jurisdictions to restrain violations of subsection (g)(1) of this section and subsections (h) (1) through (3) of this section. Actions to restrain such violations shall be brought by, and in, the name of the United States. In case of contumacy or refusal to obey a subpena served upon any person under this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce documents, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(j) Any person who violates subsection (g)(1) of this section or clause (1) or (2) of subsection (h) of this section shall be liable to a civil penalty of not more than $5,000 for each violation. Any person who violates clause (4) of subsection (h) of this section or any regulation issued pursuant to this section shall be liable to a civil penalty of not more than $2,000 for each violation. Each violation shall be a separate offense. The Secretary of the department in which the Coast Guard is operating may assess and compromise any such penalty. No penalty shall be assessed until the person charged shall have been given notice and an opportunity for a hearing on such charge. In detemrining the amount of the penalty, or the amount agreed upon in compromise, the gravity of the violation, and the demonstrated good faith of the person charged in attempting to achieve rapid compliance, after notification of a violation, shall be considered by said Secretary.

(k) The provisions of this section shall be enforced by the Secretary of the department in which the Coast Guard is operating and he may utilize by agreement, with or without reimbursement, law enforcement officers or other personnel and facilities of the Administrator, other Federal agencies, or the States to carry out the provisions of this section. *The provisions of this section may also be enforced by a State.*

(l) Anyone authorized by the Secretary of the department in which the Coast Guard is operating to enforce the provisions of this section may, except as to public vessels, (1) board and inspect any vesssel upon the navigable waters of the United States and (2) execute any warrant or other process issued by an officer or court of competent jurisdiction.

(m) In the case of Guam and the Trust Territory of the Pacific Islands, actions arising under this section may be brought in the district court of Guam, and in the case of the Virgin Islands such actions may be brought in the district court of the Virgin Islands. In the case of American Samoa and the Trust Territory of the Pacific Islands, such actions may be brought in the District Court of the United States for the District of Hawaii and such court shall have jurisdiction of such actions. In the case of the Canal Zone, such actions may be brought in the District Court for the District of the Canal Zone.

FEDERAL FACILITIES POLLUTION CONTROL

SEC. 313. (a) Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government (1) having jurisdiction over any property or facility, or (2) engaged in any activity resulting, or which may result, in the discharge or runoff of pollutants, and each officer, agent, or employee thereof in the performance of his official duties, shall be subject to, and comply with, all Federal, State, interstate, and local requirements, administrative authority, and process and sanctions respecting the control and abatement of water pollution in the same manner, and to the same extent as any nongovernmental entity including the payment of reasonable service charges. The preceding sentence shall apply (A) to any requirement whether substantive or procedural (including any recordkeeping or reporting requirement, any requirement respecting permits and any other requirement, whatsoever), (B) to the exercise of any Federal, State, or local administrative authority, and (C) to any process and sanction, whether enforced in Federal, State, or local courts or in any other manner. This subsection shall apply notwithstanding any immunity of such agencies, officers agents, or employees under any law or rule of law. Nothing in this section shall be construed to prevent any department, agency, or instrumentality of the Federal Government, or any officer, agent, or employee thereof in the performance of his official duties, from removing to the appropriate Federal district court any proceeding to which the department, agency, or instrumentality or officer, agent or employee thereof this subject pursuant to this section, and any such proceeding may be removed in accordance with 28 U.S.C. 1441 et seq. No offcer, agent, or employee of the United States shall be personally liable for any civil penalty arising from the performance of his official duties, for which he is not otherwise liable, and the United States shall be liable only for those civil penalties arising under Federal law or imposed by a State or local court to enforce an order or the process of such court. The President may exempt any effluent source of any department, agency, or instrumentality in the executive branch from compliance with any such a requirement if he determines it to be in the paramount interest of the United States to do so; except that no exemption may be granted from the requirements of section 306 or 307 of this Act. No such exemptions shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods of not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting such exemption. In addition to any such exemption of a particular effluent source, the President may, if he determines it to be in the paramount interest of the United States to do so, issue regulations exempting from compliance with the requirements of this section any weaponry, equipment, aircraft, vessels, vehicles, or other classes or categories of property, and access to such property, which are owned or operated by the Armed Forces of the United States (including the Coast Guard) or by the National Guard of any State and which are uniquely military in nature. The President shall reconsider the need for such regulations at three-year intervals.

(b)(1) The Administrator shall coordinate with the head of each department, agency, or instrumentality of the Federal Government having jurisdiction over any property or facility utilizing federally owned wastewater facilities to develop a program of cooperation for utilizing wastewater control systems utilizing those innovative treatment processes and techniques for which guidelines have been promulgated under section 304(d)(3). Such program shall include an inventory or property and facilities which could utilize such processes and techniques.

(2) Construction shall not be initiated for facilities for treatment of wastewater at any Federal property or facility after September 30, 1979, if alternative methods for wastewater treatment at such property or facility utilizing innovative treatment processes and techniques, including but not limited to methods utilizing recycle and reuse techniques and land treatment are not utilized, unless the life cycle cost of the alternative treatment works exceeds the life cycle cost of the most cost effective alternative by more than 15 per centum. The Administrator may waive the application of this paragraph in any case where the Administrator determines it to be in the public interest, or that compliance with this paragraph would interfere with the orderly compliance with conditions of a permit issued pursuant to section 402 of this Act.

CLEAN LAKES

SEC. 314. [(a) Each State shall prepare or establish, and submit to the Administrator for his approval—

[(1) an identification and classification according to eutrophic condition of all publicly owned fresh water lakes in such State;

[(2) procedures, processes, and methods (including land use requirements), to control sources of pollution of such lakes; and

[(3) methods and procedures, in conjunction with appropriate Federal agencies, to restore the quality of such lakes.]

(a) ESTABLISHMENT AND SCOPE OF PROGRAM.—

(1) STATE PROGRAM REQUIREMENTS.—Each State on a biennial basis shall prepare and submit to the Administrator for his approval—

(A) an identification and classification according to eutrophic condition of all publicly owned lakes in such State;

(B) a description of procedures, processes, and methods (including land use requirements), to control sources of pollution of such lakes;

(C) a description of methods and procedures, in conjunction with appropriate Federal agencies, to restore the quality of such lakes;

(D) methods and procedures to mitigate the harmful effects of high acidity, including innovative methods of neutralizing and restoring buffering capacity of lakes and methods of removing from lakes toxic metals and other toxic substances mobilized by high acidity;

(E) a list and description of those publicly owned lakes in such State for which uses are known to be impaired, including those lakes which are known not to meet applicable water quality standards or which require implementation of control programs to maintain compliance with applicable standards and those lakes in which water quality has deteriorated as a result of high acidity that may reasonably be due to acid deposition; and

(F) an assessment of the status and trends of water quality in lakes in such State, including but not limited to, the nature and extent of pollution loading from point and nonpoint sources and the extent to which the use of lakes is impaired as a result of such pollution, particularly with respect to toxic pollution.

(2) SUBMISSION AS PART OF 305(b)(1) REPORT.—The information required under paragraph (1) shall be included in the report required under section 305(b)(1) of this Act, beginning with the report required under such section by April 1, 1988.

(3) REPORT OF ADMINISTRATOR.—Not later than 180 days after receipt from the States of the biennial information required under paragraph (1), the Administrator shall submit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the status of water quality in lakes in the United States, including the effectiveness of the methods and procedures described in paragraph (1)(D).

(4) ELIGIBILITY REQUIREMENT.—Beginning after April 1, 1988, a State must have submitted the information required under paragraph (1) in order to receive grant assistance under this section.

(b) The Administrator shall provide financial assistance to States in order to carry out methods and procedures approved by him under [this section.] *subsection (a) of this section.* The Administrator shall provide financial assistance, to States to prepare the identification and classification surveys required in subsection (a)(1) of this section.

(c)(1) The amount granted to any State for any fiscal year under [this section] *subsection (b) of this section* shall not exceed 70 per centum of the funds expended by such State in such year for carrying out approved methods and procedures under [this section.] *subsection (a) of this section.*

(2) There is authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1973; $100,000,000 for the fiscal year

1974; $150,000,000 for the fiscal year 1975, $50,000,000 for fiscal year 1977, $60,000,000 for fiscal year 1978, $60,000,000 for fiscal year 1979, $60,000,000 for fiscal year 1980, $30,000,000 for fiscal year 1981, [and] $30,000,000 for fiscal year 1982, *such sums as may be necessary for fiscal years 1983 through 1985, and $30,000,000 per fiscal year for each of the fiscal years 1986 through 1990* for grants to States under [this section] *subsection (b) of this section* which such sums shall remain available until expended. The Administrator shall provide for an equitable distribution of such sums to the State with approved methods and procedures under [this section.] *subsection (a) of this section.*

(d) Demonstration Program.—

(1) General requirements.—The Administrator is authorized and directed to establish and conduct at locations throughout the Nation a lake water quality demonstration program. The program shall, at a minimum—

(A) develop cost effective technologies for the control of pollutants to preserve or enhance lake water quality while optimizing multiple lakes uses;

(B) control nonpoint sources of pollution which are contributing to the degradation of water quality in lakes;

(C) evaluate the feasibility of implementing regional consolidated pollution control strategies;

(D) demonstrate environmentally preferred techniques for the removal and disposal of contaminated lake sediments;

(E) develop improved methods for the removal of silt, stumps, aquatic growth, and other obstructions which impair the quality of lakes;

(F) construct and evaluate silt traps and other devices or equipment to prevent or abate the deposit of sediment in lakes; and

(G) demonstrate the costs and benefits of utilizing dredged material from lakes in the reclamation of despoiled land.

(2) Geographical requirements.—Demonstration projects authorized by this subsection shall be undertaken to reflect a variety of geographical and environmental conditions. As a priority, the Administrator shall undertake demonstration projects at Lake Houston, Texas; Beaver Lake, Arkansas; Greenwood Lake and Belcher Creek, New Jersey; Deal Lake, New Jersey; Alcyon Lake, New Jersey; Gorton's Pond, Rhode Island; Lake Washington, Rhode Island; Lake Bomoseen, Vermont; Sauk Lake, Minnesota; and Lake Worth, Texas.

(3) Reports.—The Administrator shall report annually to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate on work undertaken pursuant to this subsection. Upon completion of the program authorized by this subsection, the Administrator shall submit to such committees a final report on the results of such program, along with recommendations for further measures to improve the water quality of the Nation's lakes.

(4) Authorization of appropriations.—

(A) In general.—There is authorized to be appropriated to carry out this subsection not to exceed $40,000,000 for fiscal years beginning after September 30, 1986, to remain available until expended.

(B) Special authorizations.—

(i) Amount.—There is authorized to be appropriated to carry out subsection (b) with respect to subsection (a)(1)(D) not to exceed $15,000,000 for fiscal years beginning after September 30, 1986, to remain available until expended.

(ii) Distribution of funds.—The Administrator shall provide for an equitable distribution of sums appropriated pursuant to this subparagraph among States carrying out approved methods and procedures. Such distribution shall be based on the relative needs of each such State for the mitigation of the harmful effects on lakes and other surface waters of high acidity that may reasonably be due to acid deposition or acid mine drainage.

(iii) Grants as additional assistance.—The amount of any grant to a State under this subparagraph shall be in addition to, and not in lieu of, any other Federal financial assistance.

NATIONAL STUDY COMMISSION

Sec. 315. (a) There is established a National Study Commission, which shall make a full and complete investigation and study of all of the technological aspects of achieving, and all aspects of the total economic, social, and environmental effects of achieving or not achieving, the effluent limitations and goals set forth for 1983 in section 301(b)(2) of this Act.

(b) Such Commission shall be composed of fifteen members, including five members of the Senate, who are members of the Public Works Committee, appointed by the President of the Senate, five members of the House, who are members of the Public Works Committee, appointed by the Speaker of the House, and five members of the public appointed by the President. The Chairman of such Commission shall be elected from among its members.

(c) In the conduct of such study, the Commission is authorized to contract with the National Academy of Sciences and the National Academy of Engineering (acting through the National Research Council), the National Institute of Ecology, Brookings Institution, and other nongovernmental entities, for the investigation of matters within their competence.

(d) The heads of the departments, agencies and instrumentalities of the executive branch of the Federal Government shall cooperate with the Commission in carrying out the requirements of this section, and shall furnish to the Commission such information as the Commission deems necessary to carry out this section.

(e) A report shall be submitted to the Congress of the results of such investigation and study, together with recommendations, not later than three years after the date of enactment of this title.

(f) The members of the Commission who are not officers or employees of the United States, while attending conferences or meetings of the Commission or while otherwise serving at the request of the Chairman shall be entitled to receive compensation at a rate not in excess of the maximum rate of pay for grade GS-18, as provided in the General Schedule under section 5332 of title V of the United States Code, including traveltime and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence as authorized by law (5 U.S.C. 73b-2) for persons in the Government service employed intermittently.

(g) In addition to authority to appoint personnel subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and to pay such personnel in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, the Commission shall have authority to enter into contracts with private or public organizations who shall furnish the Commission with such administrative and technical personnel as may be neccessary to carry out the purpose of this section. Personnel furnished by such organizations under this subsection are not, and shall not be considered to be, Federal employees for any purposes, but in the performance of their duties shall be guided by the standards which apply to employees of the legislative branches under rules 41 and 43 of the Senate and House of Representatives, respectively.

(h) There is authorized to be appropriated, for use in carrying out this section, not to exceed $17,250,000.

THERMAL DISCHARGES

SEC. 316. (a) With respect to any point source otherwise subject to the provisions of section 301 or section 306 of this Act, whenever the owner or operator of any such source, after opportunity for public hearing, can demonstrate to the satisfaction of the Administrator (or if appropriate, the State) that any effluent limitation proposed for the control of the thermal component of any dischange from such source will require effluent limitations more stringent than necessary to assure the projection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife in and on the body of water into which the discharge is to be made, the Administrator (or, if appropriate, the State) may impose an effluent limitation under such sections for such plant, with respect to the thermal component of such discharge (taking into account the interaction of such thermal component with other pollutants), that will assure the protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife in and on that body of water.

(b) Any standard established pursuant to section 301 or section 306 of this Act and applicable to a point source shall require that the location, design, construction, and capacity of cooling water intake structures reflect the best technology available for minimizing adverse environmental impact.

(c) Notwithstanding any other provision of this Act, any point source of a discharge having a thermal component, the modification of which point source is commenced after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 and which, as modified, meets effluent limitations established under section 301 or, if more stringent, effluent limitations established under section 303 and which effluent limitations will assure protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife in or on the water into which the discharge is made, shall not be subject to any more stringent effluent limitation with respect to the thermal component of its discharge during a ten year period beginning on the date of completion of such modification or during the period of depreciation or amortization of such facility for the purpose of section 167 (or both) of the Internal Revenue Code of 1954, whichever period ends first.

FINANCING STUDY

SEC. 317. (a) The Administrator shall continue to investigate and study the feasibility of alternate methods of financing the cost of preventing, controlling and abating pollution as directed in the Water Quality Improvement Act of 1970 (Public Law 91-224), including, but not limited to, the feasibility of establishing a pollution abatement trust fund. The results of such investigation and study shall be reported to the Congress not later than two years after enactment of this title, together with recommendations of the Administrator for financing the programs for preventing, controlling and abating pollution for the fiscal years beginning after fiscal year 1976, incuding any necessary legislation.

(b) There is authorized to be appropriated for use in carrying out this section, not to exceed $1,000,000.

AQUACULTURE

SEC. 318. (a) The Administrator is authorized, after public hearings, to permit the discharge of a specific pollutant or pollutants under controlled conditions associated with an approved aquaculture project under Federal or State supervision pursuant to section 402 of this Act.

(b) The Administrator shall by regulation establish any procedures and guidelines which the Administrator deems necessary to carry out this section. Such regulations shall require the application to such discharge of each criterion, factor, procedure, and requirement applicable to a permit issued under section 402 of this title, as the Administrator determines necessary to carry out the objective of this Act.

(c) Each State desiring to administer its own permit program within its jurisdiction for discharge of a specific pollutant or pollutants under controlled conditions associated with an approved aquaculture project may do so if upon submission of such program the Administrator determines such program is adequate to carry out the objective of this Act.

SEC. 319. NONPOINT SOURCE MANAGEMENT PROGRAMS.

(a) STATE ASSESSMENT REPORTS.—

(1) CONTENTS.—The Governor of each State shall, after notice and opportunity for public comment, prepare and submit to the Administrator for approval, a report which—

(A) identifies those navigable waters within the State which, without additional action to control nonpoint sources of pollution, cannot reasonably be expected to attain or maintain applicable water quality standards or the goals and requirements of this Act;

(B) identifies those categories and subcategories of nonpoint sources or, where appropriate, particular nonpoint sources which add significant pollution to each portion of the navigable waters identified under subparagraph (A) in amounts which contribute to such portion not meeting such water quality standards or such goals and requirements;

(C) describes the process, including intergovernmental coordination and public participation, for identifying best management practices and measures to control each category and subcategory of nonpoint sources and, where appropriate, particular nonpoint sources identified under subparagraph (B) and to reduce, to the maximum extent practicable, the level of pollution resulting from such category, subcategory, or source; and

(D) identifies and describes State and local programs for controlling pollution added from nonpoint sources to, and improving the quality of, each such portion of the navigable waters, including but not limited to those programs which are receiving Federal assistance under subsections (h) and (i).

(2) INFORMATION USED IN PREPARATION.—In developing the report required by this section, the State (A) may rely upon information developed pursuant to sections 208, 303(e), 304(f), 305(b), and 314, and other information as appropriate, and (B) may utilize appropriate elements of the waste treatment management plans developed pursuant to sections 208(b) and 303, to the extent such elements are consistent with and fulfill the requirements of this section.

(b) STATE MANAGEMENT PROGRAMS.—

(1) IN GENERAL.—The Governor of each State, for that State or in combination with adjacent States, shall, after notice and opportunity for public comment, prepare and submit to the Administrator for approval a management program which such State proposes to implement in the first four fiscal years beginning after the date of submission of such management program for controlling pollution added from nonpoint sources to the navigable waters within the State and improving the quality of such waters.

(2) SPECIFIC CONTENTS.—Each management program proposed for implementation under this subsection shall include each of the following:

(A) An identification of the best management practices and measures which will be undertaken to reduce pollutant loadings resulting from each category, subcategory, or particular nonpoint source designated under paragraph (1)(B),

taking into account the impact of the practice on ground water quality.

(B) An identification of programs (including, as appropriate, nonregulatory or regulatory programs for enforcement, technical assistance, financial assistance, education, training, technology transfer, and demonstration projects) to achieve implementation of the best management practices by the categories, subcategories, and particular nonpoint sources designated under subparagraph (A).

(C) A schedule containing annual milestones for (i) utilization of the program implementation methods identified in subparagraph (B), and (ii) implementation of the best management practices identified in subparagraph (A) by the categories, subcategories, or particular nonpoint sources designated under paragraph (1)(B). Such schedule shall provide for utilization of the best management practices at the earliest practicable date.

(D) A certification of the attorney general of the State or States (or the chief attorney of any State water pollution control agency which has independent legal counsel) that the laws of the State or States, as the case may be, provide adequate authority to implement such management program or, if there is not such adequate authority, a list of such additional authorities as will be necessary to implement such management program. A schedule and commitment by the State or States to seek such additional authorities as expeditiously as practicable.

(E) Sources of Federal and other assistance and funding (other than assistance provided under subsections (h) and (i)) which will be available in each of such fiscal years for supporting implementation of such practices and measures and the purposes for which such assistance will be used in each of such fiscal years.

(F) An identification of Federal financial assistance programs and Federal development projects for which the State will review individual assistance applications or development projects for their effect on water quality pursuant to the procedures set forth in Executive Order 12372 as in effect on September 17, 1983, to determine whether such assistance applications or development projects would be consistent with the program prepared under this subsection; for the purposes of this subparagraph, identification shall not be limited to the assistance programs or development projects subject to Executive Order 12372 but may include any programs listed in the most recent Catalog of Federal Domestic Assistance which may have an effect on the purposes and objectives of the State's nonpoint source pollution management program.

(3) UTILIZATION OF LOCAL AND PRIVATE EXPERTS.—In developing and implementing a management program under this subsection, a State shall, to the maximum extent practicable, involve local public and private agencies and organizations which have expertise in control of nonpoint sources of pollution.

(4) DEVELOPMENT ON WATERSHED BASIS.—A State shall, to the maximum extent practicable, develop and implement a management program under this subsection on a watershed-by-watershed basis within such State.

(c) ADMINISTRATIVE PROVISIONS.—

(1) COOPERATION REQUIREMENT.—Any report required by subsection (a) and any management program and report required by subsection (b) shall be developed in cooperation with local, substate regional, and interstate entities which are actively planning for the implementation of nonpoint source pollution controls and have either been certified by the Administrator in accordance with section 208, have worked jointly with the State on water quality management planning under section 205(j), or have been designated by the State legislative body or Governor as water quality management planning agencies for their geographic areas.

(2) TIME PERIOD FOR SUBMISSION OF REPORTS AND MANAGEMENT PROGRAMS.—Each report and management program shall be submitted to the Administrator during the 18-month period beginning on the date of the enactment of this section.

(d) APPROVAL OR DISAPPROVAL OF REPORTS AND MANAGEMENT PROGRAMS.—

(1) DEADLINE.—Subject to paragraph (2), not later than 180 days after the date of submission to the Administrator of any report or management program under this section (other than subsections (h), (i), and (k)), the Administrator shall either approve or disapprove such report or management program, as the case may be. The Administrator may approve a portion of a management program under this subsection. If the Administrator does not disapprove a report, management program, or portion of a management program in such 180-day period, such report, management program, or portion shall be deemed approved for purposes of this section.

(2) PROCEDURE FOR DISAPPROVAL.—If, after notice and opportunity for public comment and consultation with appropriate Federal and State agencies and other interested persons, the Administrator determines that—

(A) the proposed management program or any portion thereof does not meet the requirements of subsection (b)(2) of this section or is not likely to satisfy, in whole or in part, the goals and requirements of this Act;

(B) adequate authority does not exist, or adequate resources are not available, to implement such program or portion;

(C) the schedule for implementing such program or portion is not sufficiently expeditious; or

(D) the practices and measures proposed in such program or portion are not adequate to reduce the level of pollution in navigable waters in the State resulting from nonpoint sources and to improve the quality of navigable waters in the State;

the Administrator shall within 6 months of the receipt of the proposed program notify the State of any revisions or modifications necessary to obtain approval. The State shall thereupon *have an additional 3 months to submit its revised management program and the Administrator shall approve or disapprove such revised program within three months of receipt.*

(3) Failure of state to submit report.—If a Governor of a State does not submit the report required by subsection (a) within the period specified by subsection (c)(2), the Administrator shall, within 30 months after the date of the enactment of this section, prepare a report for such State which makes the identifications required by paragraphs (1)(A) and (1)(B) of subsection (a). Upon completion of the requirement of the preceding sentence and after notice and opportunity for comment, the Administrator shall report to Congress on his actions pursuant to this section.

(e) Local Management Programs; Technical Assistance.—If a State fails to submit a management program under subsection (b) or the Administrator does not approve such a management program, a local public agency or organization which has expertise in, and authority to, control water pollution resulting from nonpoint sources in any area of such State which the Administrator determines is of sufficient geographic size may, with approval of such State, request the Administrator to provide, and the Administrator shall provide, technical assistance to such agency or organization in developing for such area a management program which is described in subsection (b) and can be approved pursuant to subsection (d). After development of such management program, such agency or organization shall submit such management program to the Administrator for approval. If the Administrator approves such management program, such agency or organization shall be eligible to receive financial assistance under subsection (h) for implementation of such management program as if such agency or organization were a State for which a report submitted under subsection (a) and a management program submitted under subsection (b) were approved under this section. Such financial assistance shall be subject to the same terms and conditions as assistance provided to a State under subsection (h).

(f) Technical Assistance for States.—Upon request of a State, the Administrator may provide technical assistance to such State in developing a management program approved under subsection (b) for those portions of the navigable waters requested by such State.

(g) Interstate Management Conference.—

(1) Convening of conference; notification; purpose.—If any portion of the navigable waters in any State which is implementing a management program approved under this section is not meeting applicable water quality standards or the goals and requirements of this Act as a result, in whole or in part, of pollution from nonpoint sources in another State, such State may petition the Administrator to convene, and the Administrator shall convene, a management conference of all States which contribute significant pollution resulting from nonpoint sources to such portion. If, on the basis of information available, the Administrator determines that a State is not meeting applicable water quality standards or the goals and requirements of this Act as a result, in whole or in part, of significant pollution from nonpoint sources in another State, the Administrator shall

notify such States. The Administrator may convene a management conference under this paragraph not later than 180 days after giving such notification, whether or not the State which is not meeting such standards requests such conference. The purpose of such conference shall be to develop an agreement among such States to reduce the level of pollution in such portion resulting from nonpoint sources and to improve the water quality of such portion. Nothing in such agreement shall supersede or abrogate rights to quantities of water which have been established by interstate water compacts, Supreme Court decrees, or State water laws. This subsection shall not apply to any pollution which is subject to the Colorado River Basin Salinity Control Act. The requirement that the Administrator convene a management conference shall not be subject to the provisions of section 505 of this Act.

(2) STATE MANAGEMENT PROGRAM REQUIREMENT.—To the extent that the States reach agreement through such conference, the management programs of the States which are parties to such agreements and which contribute significant pollution to the navigable waters or portions thereof not meeting applicable water quality standards or goals and requirements of this Act will be revised to reflect such agreement. Such management programs shall be consistent with Federal and State law.

(h) GRANT PROGRAM.—

(1) GRANTS FOR IMPLEMENTATION OF MANAGEMENT PROGRAMS.—Upon application of a State for which a report submitted under subsection (a) and a management program submitted under subsection (b) is approved under this section, the Administrator shall make grants, subject to such terms and conditions as the Administrator considers appropriate, under this subsection to such State for the purpose of assisting the State in implementing such management program. Funds reserved pursuant to section 205(j)(5) of this Act may be used to develop and implement such management program.

(2) APPLICATIONS.—An application for a grant under this subsection in any fiscal year shall be in such form and shall contain such other information as the Administrator may require, including an identification and description of the best management practices and measures which the State proposes to assist, encourage, or require in such year with the Federal assistance to be provided under the grant.

(3) FEDERAL SHARE.—The Federal share of the cost of each management program implemented with Federal assistance under this subsection in any fiscal year shall not exceed 60 percent of the cost incurred by the State in implementing such management program and shall be made on condition that the non-Federal share is provided from non-Federal sources.

(4) LIMITATION ON GRANT AMOUNTS.—Notwithstanding any other provision of this subsection, not more than 15 percent of the amount appropriated to carry out this subsection may be used to make grants to any one State, including any grants to any local public agency or organization with authority to control pollution from nonpoint sources in any area of such State.

(5) Priority for effective mechanisms.—For each fiscal year beginning after September 30, 1987, the Administrator may give priority in making grants under this subsection, and shall give consideration in determining the Federal share of any such grant, to States which have implemented or are proposing to implement management programs which will—

(A) control particularly difficult or serious nonpoint source pollution problems, including, but not limited to, problems resulting from mining activities;

(B) implement innovative methods or practices for controlling nonpoint sources of pollution, including regulatory programs where the Administrator deems appropriate;

(C) control interstate nonpoint source pollution problems; or

(D) carry out ground water quality protection activities which the Administrator determines are part of a comprehensive nonpoint source pollution control program, including research, planning, ground water assessments, demonstration programs, enforcement, technical assistance, education, and training to protect ground water quality from nonpoint sources of pollution.

(6) Availability for obligation.—The funds granted to each State pursuant to this subsection in a fiscal year shall remain available for obligation by such State for the fiscal year for which appropriated. The amount of any such funds not obligated by the end of such fiscal year shall be available to the Administrator for granting to other States under this subsection in the next fiscal year.

(7) Limitation on use of funds.—States may use funds from grants made pursuant to this section for financial assistance to persons only to the extent that such assistance is related to the costs of demonstration projects.

(8) Satisfactory progress.—No grant may be made under this subsection in any fiscal year to a State which in the preceding fiscal year received a grant under this subsection unless the Administrator determines that such State made satisfactory progress in such preceding fiscal year in meeting the schedule specified by such State under subsection (b)(2).

(9) Maintenance of effort.—No grant may be made to a State under this subsection in any fiscal year unless such State enters into such agreements with the Administrator as the Administrator may require to ensure that such State will maintain its aggregate expenditures from all other sources for programs for controlling pollution added to the navigable waters in such State from nonpoint sources and improving the quality of such waters at or above the average level of such expenditures in its two fiscal years preceding the date of enactment of this subsection.

(10) Request for information.—The Administrator may request such information, data, and reports as he considers necessary to make the determination of continuing eligibility for grants under this section.

(11) Reporting and other requirements.—Each State shall report to the Administrator on an annual basis concerning (A)

its progress in meeting the schedule of milestones submitted pursuant to subsection (b)(2)(C) of this section, and (B) to the extent that appropriate information is available, reductions in nonpoint source pollutant loading and improvements in water quality for those navigable waters or watersheds within the State which were identified pursuant to subsection (a)(1)(A) of this section resulting from implementation of the management program.

(12) LIMITATION ON ADMINISTRATIVE COSTS.—For purposes of this subsection, administrative costs in the form of salaries, overhead, or indirect costs for services provided and charged against activities and programs carried out with a grant under this subsection shall not exceed in any fiscal year 10 percent of the amount of the grant in such year, except that costs of implementing enforcement and regulatory activities, education, training, technical assistance, demonstration projects, and technology transfer programs shall not be subject to this limitation.

(i) GRANTS FOR PROTECTING GROUNDWATER QUALITY.—

(1) ELIGIBLE APPLICANTS AND ACTIVITIES.—Upon application of a State for which a report submitted under subsection (a) and a plan submitted under subsection (b) is approved under this section, the Administrator shall make grants under this subsection to such State for the purpose of assisting such State in carrying out groundwater quality protection activities which the Administrator determines will advance the State toward implementation of a comprehensive nonpoint source pollution control program. Such activities shall include, but not be limited to, research, planning, groundwater assessments, demonstration programs, enforcement, technical assistance, education and training to protect the quality of groundwater and to prevent contamination of groundwater from nonpoint sources of pollution.

(2) APPLICATIONS.—An application for a grant under this subsection shall be in such form and shall contain such information as the Administrator may require.

(3) FEDERAL SHARE; MAXIMUM AMOUNT.—The Federal share of the cost of assisting a State in carrying out groundwater protection activities in any fiscal year under this subsection shall be 50 percent of the costs incurred by the State in carrying out such activities, except that the maximum amount of Federal assistance which any State may receive under this subsection in any fiscal year shall not exceed $150,000.

(4) REPORT.—The Administrator shall include in each report transmitted under subsection (m) a report on the activities and programs implemented under this subsection during the preceding fiscal year.

(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out subsections (h) and (i) not to exceed $70,000,000 for fiscal year 1988, $100,000,000 per fiscal year for each of fiscal years 1989 and 1990, and $130,000,000 for fiscal year 1991; except that for each of such fiscal years not to exceed $7,500,000 may be made available to carry out subsection (i). Sums appropriated pursuant to this subsection shall remain available until expended.

(k) Consistency of Other Programs and Projects With Management Programs.—The Administrator shall transmit to the Office of Management and Budget and the appropriate Federal departments and agencies a list of those assistance programs and development projects identified by each State under subsection (b)(2)(F) for which individual assistance applications and projects will be reviewed pursuant to the procedures set forth in Executive Order 12372 as in effect on September 17, 1983. Beginning not later than sixty days after receiving notification by the Administrator, each Federal department and agency shall modify existing regulations to allow States to review individual development projects and assistance applications under the identified Federal assistance programs and shall accommodate, according to the requirements and definitions of Executive Order 12372, as in effect on September 17, 1983, the concerns of the State regarding the consistency of such applications or projects with the State nonpoint source pollution management program.

(l) Collection of Information.—The Administrator shall collect and make available, through publications and other appropriate means, information pertaining to management practices and implementation methods, including, but not limited to, (1) information concerning the costs and relative efficiencies of best management practices for reducing nonpoint source pollution; and (2) available data concerning the relationship between water quality and implementation of various management practices to control nonpoint sources of pollution.

(m) Reports of Administrator.—

(1) Annual reports.—Not later than January 1, 1988, and each January 1 thereafter, the Administrator shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate, a report for the preceding fiscal year on the activities and programs implemented under this section and the progress made in reducing pollution in the navigable waters resulting from nonpoint sources and improving the quality of such waters.

(2) Final report.—Not later than January 1, 1990, the Administrator shall transmit to Congress a final report on the activities carried out under this section. Such report, at a minimum, shall—

(A) describe the management programs being implemented by the States by types and amount of affected navigable waters, categories and subcategories of nonpoint sources, and types of best management practices being implemented;

(B) describe the experiences of the States in adhering to schedules and implementing best management practices;

(C) describe the amount and purpose of grants awarded pursuant to subsections (h) and (i) of this section;

(D) identify, to the extent that information is available, the progress made in reducing pollutant loads and improving water quality in the navigable waters;

(E) indicate what further actions need to be taken to attain and maintain in those navigable waters (i) applica-

ble water quality standards, and (ii) the goals and requirements of this Act;

(F) include recommendations of the Administrator concerning future programs (including enforcement programs) for controlling pollution from nonpoint sources; and

(G) identify the activities and programs of departments, agencies, and instrumentalities of the United States which are inconsistent with the management programs submitted by the States and recommend modifications so that such activities and programs are consistent with and assist the States in implementation of such management programs.

(n) SET ASIDE FOR ADMINISTRATIVE PERSONNEL.—Not less than 5 percent of the funds appropriated pursuant to subsection (j) for any fiscal year shall be available to the Administrator to maintain personnel levels at the Environmental Protection Agency at levels which are adequate to carry out this section in such year.

SEC. 320. NATIONAL ESTUARY PROGRAM.

(a) MANAGEMENT CONFERENCE.—

(1) NOMINATION OF ESTUARIES.—The Governor of any State may nominate to the Administrator an estuary lying in whole or in part within the State as an estuary of national significance and request a management conference to develop a comprehensive management plan for the estuary. The nomination shall document the need for the conference, the likelihood of success, and information relating to the factors in paragraph (2).

(2) CONVENING OF CONFERENCE.—

(A) IN GENERAL.—In any case where the Administrator determines, on his own initiative or upon nomination of a State under paragraph (1), that the attainment or maintenance of that water quality in an estuary which assures protection of public water supplies and the protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife, and allows recreational activities, in and on the water, requires the control of point and nonpoint sources of pollution to supplement existing controls of pollution in more than one State, the Administrator shall select such estuary and convene a management conference.

(B) PRIORITY CONSIDERATION.—The Administrator shall give priority consideration under this section to Long Island Sound, New York and Connecticut; Narragansett Bay, Rhode Island; Buzzards Bay, Massachusetts; Puget Sound, Washington; New York-New Jersey Harbor, New York and New Jersey; Delaware Bay, Delaware and New Jersey; Delaware Inland Bays, Delaware; Albemarle Sound, North Carolina; Sarasota Bay, Florida; San Francisco Bay, California; and Galveston Bay, Texas.

(3) BOUNDARY DISPUTE EXCEPTION.—In any case in which a boundary between two States passes through an estuary and such boundary is disputed and is the subject of an action in any court, the Administrator shall not convene a management

conference with respect to such estuary before a final adjudication has been made of such dispute.

(b) Purposes of Conference.—The purposes of any management conference convened with respect to an estuary under this subsection shall be to—

(1) assess trends in water quality, natural resources, and uses of the estuary;

(2) collect, characterize, and assess data on toxics, nutrients, and natural resources within the estuarine zone to identify the causes of environmental problems;

(3) develop the relationship between the inplace loads and point and nonpoint loadings of pollutants to the estuarine zone and the potential uses of the zone, water quality, and natural resources;

(4) develop a comprehensive conservation and management plan that recommends priority corrective actions and compliance schedules addressing point and nonpoint sources of pollution to restore and maintain the chemical, physical, and biological integrity of the estuary, including restoration and maintenance of water quality, a balanced indigenous population of shellfish, fish and wildlife, and recreational activities in the estuary, and assure that the designated uses of the estuary are protected;

(5) develop plans for the coordinated implementation of the plan by the States as well as Federal and local agencies participating in the conference;

(6) monitor the effectiveness of actions taken pursuant to the plan; and

(7) review all Federal financial assistance programs and Federal development projects in accordance with the requirements of Executive Order 12372, as in effect on September 17, 1983, to determine whether such assistance program or project would be consistent with and further the purposes and objectives of the plan prepared under this section.

For purposes of paragraph (7), such programs and projects shall not be limited to the assistance programs and development projects subject to Executive Order 12372, but may include any programs listed in the most recent Catalog of Federal Domestic Assistance which may have an effect on the purposes and objectives of the plan developed under this section.

(c) Members of Conference.—The members of a management conference convened under this section shall include, at a minimum, the Administrator and representatives of—

(1) each State and foreign nation located in whole or in part in the estuarine zone of the estuary for which the conference is convened;

(2) international, interstate, or regional agencies or entities having jurisdiction over all or a significant part of the estuary;

(3) each interested Federal agency, as determined appropriate by the Administrator;

(4) local governments having jurisdiction over any land or water within the estuarine zone, as determined appropriate by the Administrator; and

(5) affected industries, public and private educational institutions, and the general public, as determined appropriate by the Administrator.

(d) UTILIZATION OF EXISTING DATA.—In developing a conservation and management plan under this section, the management conference shall survey and utilize existing reports, data, and studies relating to the estuary that have been developed by or made available to Federal, interstate, State, and local agencies.

(e) PERIOD OF CONFERENCE.—A management conference convened under this section shall be convened for a period not to exceed 5 years. Such conference may be extended by the Administrator, and if terminated after the initial period, may be reconvened by the Administrator at any time thereafter, as may be necessary to meet the requirements of this section.

(f) APPROVAL AND IMPLEMENTATION OF PLANS.—

(1) APPROVAL.—Not later than 120 days after the completion of a conservation and management plan and after providing for public review and comment, the Administrator shall approve such plan if the plan meets the requirements of this section and the affected Governor or Governors concur.

(2) IMPLEMENTATION.—Upon approval of a conservation and management plan under this section, such plan shall be implemented. Funds authorized to be appropriated under titles II and VI and section 319 of this Act may be used in accordance with the applicable requirements of this Act to assist States with the implementation of such plan.

(g) GRANTS.—

(1) RECIPIENTS.—The Administrator is authorized to make grants to State, interstate, and regional water pollution control agencies and entities, State coastal zone management agencies, interstate agencies, other public or nonprofit private agencies, institutions, organizations, and individuals.

(2) PURPOSES.—Grants under this subsection shall be made to pay for assisting research, surveys, studies, and modeling and other technical work necessary for the development of a conservation and management plan under this section.

(3) FEDERAL SHARE.—The amount of grants to any person (including a State, interstate, or regional agency or entity) under this subsection for a fiscal year shall not exceed 75 percent of the costs of such research, survey, studies, and work and shall be made on condition that the non-Federal share of such costs are provided from non-Federal sources.

(h) GRANT REPORTING.—Any person (including a State, interstate, or regional agency or entity) that receives a grant under subsection (g) shall report to the Administrator not later than 18 months after receipt of such grant and biennially thereafter on the progress being made under this section.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator not to exceed $12,000,000 per fiscal year for each of fiscal years 1987, 1988, 1989, 1990, and 1991 for—

(1) expenses related to the administration of management conferences under this section, not to exceed 10 percent of the amount appropriated under this subsection;

(2) making grants under subsection (g); and

(3) monitoring the implementation of a conservation and management plan by the management conference or by the Administrator, in any case in which the conference has been terminated.

The Administrator shall provide up to $5,000,000 per fiscal year of the sums authorized to be appropriated under this subsection to the Administrator of the National Oceanic and Atmospheric Administration to carry out subsection (j).

(j) RESEARCH.—

(1) PROGRAMS.—In order to determine the need to convene a management conference under this section or at the request of such a management conference, the Administrator shall coordinate and implement, through the National Marine Pollution Program Office and the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration, as appropriate, for one or more estuarine zones—

(A) a long-term program of trend assessment monitoring measuring variations in pollutant concentrations, marine ecology, and other physical or biological environmental parameters which may affect estuarine zones, to provide the Administrator the capacity to determine the potential and actual effects of alternative management strategies and measures;

(B) a program of ecosystem assessment assisting in the development of (i) baseline studies which determine the state of estuarine zones and the effects of natural and anthropogenic changes, and (ii) predictive models capable of translating information on specific discharges or general pollutant loadings within estuarine zones into a set of probable effects on such zones;

(C) a comprehensive water quality sampling program for the continuous monitoring of nutrients, chlorine, acid precipitation dissolved oxygen, and potentially toxic pollutants (including organic chemicals and metals) in estuarine zones, after consultation with interested State, local, interstate, or international agencies and review and analysis of all environmental sampling data presently collected from estuarine zones; and

(D) a program of research to identify the movements of nutrients, sediments and pollutants through estuarine zones and the impact of nutrients, sediments, and pollutants on water quality, the ecosystem, and designated or potential uses of the estuarine zones.

(2) REPORTS.—The Administrator, in cooperation with the Administrator of the National Oceanic and Atmospheric Administration, shall submit to the Congress no less often than biennially a comprehensive report on the activities authorized under this subsection including—

(A) a listing of priority monitoring and research needs;

(B) an assessment of the state and health of the Nation's estuarine zones, to the extent evaluated under this subsection;

(C) a discussion of pollution problems and trends in pollutant concentrations with a direct or indirect effect on water quality, the ecosystem, and designated or potential uses of each estuarine zone, to the extent evaluated under this subsection; and

(D) an evaluation of pollution abatement activities and management measures so far implemented to determine the degree of improvement toward the objectives expressed in subsection (b)(4) of this section.

(k) DEFINITIONS.—For purposes of this section, the terms "estuary" and "estuarine zone" have the meanings such terms have in section 104(n)(4) of this Act, except that the term "estuarine zone" shall also include associated aquatic ecosystems and those portions of tributaries draining into the estuary up to the historic height of migration of anadromous fish or the historic head of tidal influence, whichever is higher.

TITLE IV—PERMITS AND LICENSES

CERTIFICATION

SEC. 401. (a)(1) Any applicant for a Federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge into the navigable waters, shall provide the licensing or permitting agency a certification from the State in which the discharge originates or will originate, or, if appropriate, from the interstate water pollution control agency having jurisdiction over the navigable waters at the point where the discharge originates or will originate, that any such discharge will comply with the applicable provisions of sections 301, 302, 303, 306, and 307 of this Act. In the case of any such activity for which there is not an applicable effluent limitation or other limitation under sections 301(b) and 302, and there is not an applicable standard under sections 306, and 307, the State shall so certify, except that any such certification shall not be deemed to satisfy section 511(c) of this Act. Such State or interstate agency shall establish procedures for public notice in the case of all applications for certification by it and, to the extent it deems appropriate, procedures for public hearings in connection with specific applications. In any case where a State or interstate agency has no authority to give such a certification, such certification shall be from the Administrator. If the State, interstate agency, or Administrator, as the case may be, fails or refuses to act on a request for certification, within a reasonable period of time (which shall not exceed one year) after receipt of such request, the certification requirements of this subsection shall be waived with respect to such Federal application. No license or permit shall be granted until the certification required by this section has been obtained or has been waived as provided in the preceding sentence. No license or permit shall be granted if certification has been denied by the State, interstate agency, or the Administrator, as the case may be.

(2) Upon receipt of such application and certification the licensing or permitting agency shall immediately notify the Administra-

tor of such application and certification. Whenever such a discharge may affect, as determined by the Administrator, the quality of the waters of any other State, the Administrator, within thirty days of the date of notice of application for such Federal license or permit shall so notify such other State, the licensing or permitting agency, and the applicant. If, within sixty days after receipt of such notification, such other State determines that such discharge will affect the quality of its waters so as to violate any water quality requirement in such State, and within such sixty-day period notifies the Administrator and the licensing or permitting agency in writing of its objection to the issuance of such license or permit and requests a public hearing on such objection, the licensing or permitting agency shall hold such a hearing. The Administrator shall at such hearing submit his evaluation and recommendations with respect to any such objection to the licensing or permitting agency. Such agency, based upon the recommendations of such State, the Administrator, and upon any additional evidence, if any, presented to the agency at the hearing, shall condition such license or permit in such manner as may be necessary to insure compliance with applicable water quality requirements. If the imposition of conditions cannot insure such compliance such agency shall not issue such license or permit.

(3) The certification obtained pursuant to paragraph (1) of this subsection with respect to the construction of any facility shall fulfill the requirements of this subsection with respect to certification in connection with any other Federal license or permit required for the operation of such facility unless, after notice to the certifying State, agency, or Administrator, as the case may be, which shall be given by the Federal agency to whom application is made for such operating license or permit, the State, or if appropriate, the interstate agency of the Administrator, notifies such agency within sixty days after receipt of such notice that there is no longer reasonable assurance that there will be compliance with the applicable provisions of section 301, 302, 303, 306, and 307 of this Act because of changes since the construction license or permit certification was issued in (A) the construction or operation of the facility, (B) the characteristics of the waters into which such discharge is made, (C) the water quality criteria applicable to such waters or (D) applicable effluent limitations or other requirements. This paragraph shall be inapplicable in any case where the applicant for such operating license or permit has failed to provide the certifying State, or, if appropriate, the interstate agency or the Administrator, with notice of any proposed changes in the construction or operation of the facility with respect to which a construction license or permit has been granted, which changes may result in violation of section 301, 302, 303, 306, or 307 of this Act.

(4) Prior to the initial operation of any federally licensed or permitted facility or activity which may result in any discharge into the navigable waters and with respect to which a certification has been obtained pursuant to paragraph (1) of this subsection, which facility or activity is not subject to a Federal operating licensee or permit, the licensee or permittee shall provide an opportunity for such certifying State, or, if appropriate, the interstate agency or the Administrator to review the manner in which the facility or ac-

tivity shall be operated or conducted for the purposes of assuring that applicable effluent limitations or other limitations or other applicable water quality requirements will not be violated. Upon notification by the certifying State, or if appropriate, the interstate agency or the Administrator that the operation of any such federally licensed or permitted facility or activity will violate applicable effluent limitations or other limitations or other water quality requirements such Federal agency may, after public hearing, suspend such license or permit. If such license or permit is suspended, it shall remain suspended until notification is received from the certifying State, agency, or Administrator, as the case may be, that there is reasonable assurance that such facility or activity will not violate the applicable provisions of section 301, 302, 303, 306, or 307 of this Act.

(5) Any Federal license or permit with respect to which a certification has been obtained under paragraph (1) of this subsection may be suspended or revoked by the Federal agency issuing such license or permit upon the entering of a judgment under this Act that such facility or activity has been operated in violation of the applicable provisions of section 301, 302, 303, 306, or 307 of this Act.

(6) Except with respect to a permit issued under section 402 of this Act, in any case where actual construction of a facility has been lawfully commenced prior to April 3, 1970, no certification shall be required under this subsection for a license or permit issued after April 3, 1970, to operate such facility, except that such license or permit issued without certification shall terminate April 3, 1973, unless prior to such termination date the person having such license or permit submits to the Federal agency which issued such license or permit a certification and otherwise meets the requirements of this section.

(b) Nothing in this section shall be construed to limit the authority of any department or agency pursuant to any other provision of law to require compliance with any applicable water quality requirements. The Administrator shall, upon the request of any Federal department or agency, or State or interstate agency, or applicant, provide, for the purpose of this section, any relevant information on applicable effluent limitations, or other limitations, standards, regulations, or requirements, or water quality criteria, and shall, when requested by any such department or agency or State or interstate agency, or applicant, comment on any methods to comply with such limitations, standards, regulations, requirements, or criteria.

(c) In order to implement the provisions of this section, the Secretary of the Army, acting through the Chief of Engineers, is authorized, if he deems it to be in the public interest, to permit the use of spoil disposal areas under his jurisdiction by Federal licensees or permittees, and to make an appropriate charge for such use. Moneys received from such licensees or permittees shall be deposited in the Treasury as miscellaneous receipts.

(d) Any certification provided under this section shall set forth any effluent limitations and other limitations, and monitoring requirements necessary to assure that any applicant for a Federal license or permit will comply with any applicable effluent limitations and other limitations, under section 301 or 302 of this Act, standard of performance under section 306 of this Act, or prohibition, effluent standard, or pretreatment standard under section 307 of this Act, and with any other appropriate requirement of State law set forth in such certification, and shall become a condition on any Federal license or permit subject to the provisons of this section.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

SEC. 402. (a)(1) Except as provided in sections 318 and 404 of this Act, the Administrator may, after opportunity for public hearing, issue a permit for the discharge of any pollutant, or combination of pollutants, notwithstanding section 301(a), upon condition that such discharge will meet either all applicable requirements under sections 301, 302, 306, 307, 308, and 403 of this Act, or prior to the taking of necessary implementing actions relating to all such requirements, such conditions as the Administrator determines are necessary to carry out the provisions of this Act.

(2) The Administrator shall prescribe conditions for such permits to assure compliance with the requirements of paragraph (1) of this subsection, including conditions on data and information collection, reporting, and such other requirements as he deems appropriate.

(3) The permit program of the Administrator under paragraph (1) of this subsection, and permits issued thereunder, shall be subject to the same terms, conditions, and requirements as apply to a State permit program and permits issued thereunder under subsection (b) of this section.

(4) All permits for discharges into the navigable waters issued pursuant to section 13 of the Act of March 3, 1899, shall be deemed to be permits issued under this title, and permits issued under this title shall be deemed to be permits issued under section 13 of the Act of March 3, 1899, and shall continue in force and effect for their term unless revoked, modified, or suspended in accordance with the provisions of this Act.

(5) No permit for a discharge into the navigable waters shall be issued under section 13 of the Act of March 3, 1899, after the date of enactment of this title. Each application for a permit under section 13 of the Act of March 3, 1899, pending on the date of enactment of this Act shall be deemed to be an application for a permit under this section. The Administrator shall authorize a State, which he determines has the capability of administering a permit program which will carry out the objective of this Act, to issue permits for discharges into the navigable waters within the jurisdiction of such State. The Administrator may exercise the authority granted him by the preceding sentence only during the period which begins on the date of enactment of this Act and ends either on the ninetieth day after the date of the first promulgation of guidelines required by section 304(h)(2) of this Act, or the date approval by the Administrator of a permit program for such State under subsection (b) of this section, whichever date first occurs, and no such authorization to a State shall extend beyond the last day of such period. Each such permit shall be subject to such conditions as the Administrator determines are necessary to carry out the

provisions of this Act. No such permit shall issue if the Administrator objects to such issuance.

(b) At any time after the promulgation of the guidelines required by subsection (h)(2) of section 304 of this Act, the Governor of each State desiring to administer its own permit program for discharges into navigable waters within its jurisdiction may submit to the Administrator a full and complete description of the program it proposes to establish and administer under State law or under an interstate compact. In addition, such State shall submit a statement from the attorney general (or the attorney for those State water pollution control agencies which have independent legal counsel), or from the chief legal officer in the case of an interstate agency, that the laws of such State, or the interstate compact, as the case may be, provide adequate authority to carry out the described program. The Administrator shall approve each such submitted program unless he determines that adequate authority does not exist:

(1) To issue permits which—

(A) apply, and insure compliance with, any applicable requirements of sections 301, 302, 306, 307, and 403;

(B) are for fixed terms not exceeding five years; and

(C) can be terminated or modified for cause including, but not limited to, the following:

(i) violation of any condition of the permit;

(ii) obtaining a permit by misrepresentation, or failure to disclose fully all relevant facts;

(iii) change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

(D) control the disposal of pollutants into wells;

(2)(A) To issue permits which apply, and insure compliance with, all applicable requirements of section 308 of this Act, or

(B) To inspect, monitor, enter, and require reports to at least the same extent as required in section 308 of this Act;

(3) To insure that the public, and any other State the waters of which may be affected, receive notice of each application for a permit and to provide an opportunity for public hearing before a ruling on each such application;

(4) To insure that the Administrator receives notice of each application (including a copy thereof) for a permit;

(5) To insure that any State (other than the permitting State), whose waters may be affected by the issuance of a permit may submit written recommendations to the permitting State (and the Administrator) with respect to any permit application and, if any part of such written recommendations are not accepted by the permitting State, that the permitting State will notify such affected State (and the Administrator) in writing of its failure to so accept such recommendations together with its reasons for so doing;

(6) To insure that no permit will be issued if, in the judgment of the Secretary of the Army acting through the Chiefs of Engineers, after consultation with the Secretary of the department in which the Coast Guard is operating, anchorage and navigation of any of the navigable waters would be substantially impaired thereby;

(7) To abate violations of the permit or the permit program, including civil and criminal penalties and other ways and means of enforcement;

(8) To insure that any permit for a discharge from a publicly owned treatment works includes conditions to require the identification in terms of character and volume of pollutants of any significant source introducing pollutants subject to pretreatment standards under section 307(b) of this Act into such works and a program to assure compliance with such pretreatment standards by each such source, in addition to adequate notice to the permitting agency of (A) new introductions into such works of pollutants from any source which would be a new source as defined in section 306 if such source were discharging pollutants, (B) new introductions of pollutants into such works from a source which would be subject to section 301 if it were discharging such pollutants, or (C) a substantial change in volume or character of pollutants being introduced into such works by a source introducing pollutants into such works at the time of issuance of the permit. Such notice shall include information on the quality and quantity of effluent to be introduced into such treatment works and any anticipated impact of such change in the quantity or quality of effluent to be discharged from such publicly owned treatment works; and

(9) To insure that any industrial user of any publicly owned treatment works will comply with sections 204(b), 307, and 308.

(c)(1) Not later than ninety days after the date on which a State has submitted a program (or revision thereof) pursuant to subsection (b) of this section, the Administrator shall suspend the issuance of permits under subsection (a) of this section [as to those navigable waters] *as to those discharges* subject to such program unless he determines that the State permit program does not meet the requirements of subsection (b) of this section or does not conform to the guidelines issued under section 304(i)(2) of this Act. If the Administrator so determines, he shall notify the State of any revisions or modifications necessary to conform to such requirements or guidelines.

(2) Any State permit program under this section shall at all times be in accordance with this section and guidelines promulgated pursuant to section 304(h)(2) of this Act.

(3) Whenever the Administrator determines after public hearing that a State is not administering a program approved under this section in accordance with requirements of this section, he shall so notify the State and, if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days, the Administrator shall withdraw approval of such program. The Administrator shall not withdraw approval of any such program unless he shall first have notified the State, and made public, in writing, the reasons for such withdrawal.

(4) LIMITATIONS ON PARTIAL PERMIT PROGRAM RETURNS AND WITHDRAWALS.—A State may return to the Administrator administration, and the Administrator may withdraw under paragraph (3) of this subsection approval, of—

(A) a State partial permit program approved under subsection (n)(3) only if the entire permit program being administered by

the State department or agency at the time is returned or withdrawn; and

(B) a State partial permit program approved under subsection (n)(4) only if an entire phased component of the permit program being administered by the State at the time is returned or withdrawn.

(d)(1) Each State shall transmit to the Administrator a copy of each permit application received by such State and provide notice to the Administrator of every action related to the consideration of such permit application, including each permit proposed to be issued by such State.

(2) No permit shall issue (A) if the Administrator within ninety days of the date of his notification under subsection (b)(5) of this section objects in writing to the issuance of such permit, or (B) if the Administrator within ninety days of the date of transmittal of the proposed permit by the State objects in writing to the issuance of such permit as being outside the guidelines and requirements of this Act. Whenever the Administrator objects to the issuance of a permit under this paragraph such written objection shall contain a statement of the reasons for such objection and the effluent limitations and conditions which such permit would include if it were issued by the Administrator.

(3) The Administrator may, as to any permit application, waive paragraph (2) of this subsection.

(4) In any case where, after the date of enactment of this paragraph, the Administrator, pursuant to paragraph (2) of this subsection, objects to the issuance of a permit, on request of the State, a public hearing shall be held by the Administrator on such objection. If the State does not resubmit such permit revised to meet such objection within 30 days after completion of the hearing, or, if no hearing is requested within 90 days after the date of such objection, the Administrator may issue the permit pursuant to subsection (a) of this section for such source in accordance with the guidelines and requirements of this Act.

(e) In accordance with guidelines, promulgated pursuant to subsection (h)(2) of section 304 of this Act, the Administrator is authorized to waive the requirements of subsection (d) of this section at the time he approves a program pursuant to subsection (b) of this section for any category (including any class, type, or size within such category) of point sources within the State submitting such program.

(f) The Administrator shall promulgate regulations establishing categories of point sources which he determines shall not be subject to the requirements of subsection (d) of this section in any State with a program approved pursuant to subsection (b) of this section. The Administrator may distinguish among classes, types, and sizes within any category of point sources.

(g) Any permit issued under this section for the discharge of pollutants into the navigable waters from a vessel or other floating craft shall be subject to any applicable regulations promulgated by the Secretary of the Department in which the Coast Guard is operating, establishing specifications for safe transportation, handling, carriage, storage, and stowage of pollutants.

(h) In the event any condition of a permit for discharges from a treatment works (as defined in section 212 of this Act) which is publicly owned is violated, a State with a program approved under subsection (b) of this section or the Administrator, where no State program is approved or where the Administrator determines pursuant to section 309(a) of this Act that a State with an approved program has not commenced appropriate enforcement action with respect to such permit, may proceed in a court of competent jurisdiction to restrict or prohibit the introduction of any pollutant into such treatment works by a source not utilizing such treatment works prior to the finding that such condition was violated.

(i) Nothing in this section shall be construed to limit the authority of the Administrator to take action pursuant to section 309 of this Act.

(j) A copy of each permit application and each permit issued under this section shall be available to the public. Such permit application or permit, or portion thereof, shall further be available on request for the purpose of reproduction.

(k) Compliance with a permit issued pursuant to this section shall be deemed compliance, for purposes of sections 309 and 505, with sections 301, 302, 306, 307, and 403, except any standard imposed under section 307 for a toxic pollutant injurious to human health. Until December 31, 1974, in any case where a permit for discharge has been applied for pursuant to this section, but final administrative disposition of such application has not been made, such discharge shall not be a violation of (1) section 301, 306, or 402, of this Act, or (2) section 13 of the Act, of March 3, 1899, unless the Administrator or other plaintiff proves that final administrative disposition of such application has not been made because of the failure of the applicant to furnish information reasonably required or requested in order to process the application. For the 180-day period beginning on the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, in the case of any point source discharging any pollutant or combination of pollutants immediately prior to such date of enactment which source is not subject to section 13 of the Act of March 3, 1899, the discharge by such source shall not be a violation of this Act if such a source applies for a period for discharge pursuant to this section within such 180-day period.

(l) LIMITATION ON PERMIT REQUIREMENT.—

*(1) AGRICULTURAL RETURN FLOWS.—*The Administrator shall not require a permit under this section for discharges composed entirely of return flows from irrigated agriculture, nor shall the Administrator directly or indirectly, require any State to require such a permit.

(2) STORMWATER RUNOFF FROM OIL, GAS, AND MINING OPERATIONS.—The Administrator shall not require a permit under this section, nor shall the Administrator directly or indirectly require any State to require a permit, for discharges of stormwater runoff from mining operations or oil and gas exploration, production, processing, or treatment operations or transmission facilities, composed entirely of flows which are from conveyances or systems of conveyances (including but not limited to pipes, conduits, ditches, and channels) used for collecting and

conveying precipitation runoff ana which are not contaminated by contact with, or do not come into contact with, any overburden, raw material, intermediate products, finished product, byproduct, or waste products located on the site of such operations.

(m) ADDITIONAL PRETREATMENT OF CONVENTIONAL POLLUTANTS NOT REQUIRED.—To the extent a treatment works (as defined in section 212 of this Act) which is publicly owned is not meeting the requirements of a permit issued under this section for such treatment works as a result of inadequate design or operation of such treatment works, the Administrator, in issuing a permit under this section, shall not require pretreatment by a person introducing conventional pollutants identified pursuant to section 304(a)(4) of this Act into such treatment works other than pretreatment required to assure compliance with pretreatment standards under subsection (b)(8) of this section and section 307(b)(1) of this Act. Nothing in this subsection shall affect the Administrator's authority under sections 307 and 309 of this Act, affect State and local authority under sections 307(b)(4) and 510 of this Act, relieve such treatment works of its obligations to meet requirements established under this Act, or otherwise preclude such works from pursuing whatever feasible options are available to meet its responsibility to comply with its permit under this section.

(n) PARTIAL PERMIT PROGRAM.—

(1) STATE SUBMISSION.—The Governor of a State may submit under subsection (b) of this section a permit program for a portion of the discharges into the navigable waters in such State.

(2) MINIMUM COVERAGE.—A partial permit program under this subsection shall cover, at a minimum, administration of a major category of the discharges into the navigable waters of the State or a major component of the permit program required by subsection (b).

(3) APPROVAL OF MAJOR CATEGORY PARTIAL PERMIT PROGRAMS.—The Administrator may approve a partial permit program covering administration of a major category of discharges under this subsection if—

(A) such program represents a complete permit program and covers all of the discharges under the jurisdiction of a department or agency of the State; and

(B) the Administrator determines that the partial program represents a significant and identifiable part of the State program required by subsection (b).

(4) APPROVAL OF MAJOR COMPONENT PARTIAL PERMIT PROGRAMS.--The Administrator may approve under this subsection a partial and phased permit program covering administration of a major component (including discharge categories) of a State permit program required by subsection (b) if—

(A) the Administrator determines that the partial program represents a significant and identifiable part of the State program required by subsection (b); and

(B) the State submits, and the Administrator approves, a plan for the State to assume administration by phases of the remainder of the State program required by subsection (b) by a specified date not more than 5 years after submis-

sion of the partial program under this subsection and agrees to make all reasonable efforts to assume such administration by such date.

(o) Anti-Backsliding.—

(1) General prohibition.—In the case of effluent limitations established on the basis of subsection (a)(1)(B) of this section, a permit may not be renewed, reissued, or modified on the basis of effluent guidelines promulgated under section 304(b) subsequent to the original issuance of such permit, to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit. In the case of effluent limitations established on the basis of section 301(b)(1)(C) or section 303 (d) or (e), a permit may not be renewed, reissued, or modified to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit except in compliance with section 303(d)(4).

(2) Exceptions.—A permit with respect to which paragraph (1) applies may be renewed, reissued, or modified to contain a less stringent effluent limitation applicable to a pollutant if—

(A) material and substantial alterations or additions to the permitted facility occurred after permit issuance which justify the application of a less stringent effluent limitation;

(B)(i) information is available which was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and which would have justified the application of a less stringent effluent limitation at the time of permit issuance; or

(ii) the Administrator determines that technical mistakes or mistaken interpretations of law were made in issuing the permit under subsection (a)(1)(B);

(C) a less stringent effluent limitation is necessary because of events over which the permittee has no control and for which there is no reasonably available remedy;

(D) the permittee has received a permit modification under section 301(c), 301(g), 301(h), 301(i), 301(k), 301(n), or 316(a); or

(E) the permittee has installed the treatment facilities required to meet the effluent limitations in the previous permit and has properly operated and maintained the facilities but has nevertheless been unable to achieve the previous effluent limitations, in which case the limitations in the reviewed, reissued, or modified permit may reflect the level of pollutant control actually achieved (but shall not be less stringent than required by effluent guidelines in effect at the time of permit renewal, reissuance, or modification).

Subparagraph (B) shall not apply to any revised waste load allocations or any alternative grounds for translating water quality standards into effluent limitations, except where the cumulative effect of such revised allocations results in a decrease in the amount of pollutants discharged into the concerned waters, and such revised allocations are not the result of a discharger eliminating or substantially reducing its discharge of pollut-

ants due to complying with the requirements of this Act or for reasons otherwise unrelated to water quality.

(3) LIMITATIONS.—In no event may a permit with respect to which paragraph (1) applies be renewed, reissued, or modified to contain an effluent limitation which is less stringent than required by effluent guidelines in effect at the time the permit is renewed, reissued, or modified. In no event may such a permit to discharge into waters be renewed, reissued, or modified to contain a less stringent effluent limitation if the implementation of such limitation would result in a violation of a water quality standard under section 303 applicable to such waters.

(p) MUNICIPAL AND INDUSTRIAL STORMWATER DISCHARGES.—

(1) GENERAL RULE.—Prior to October 1, 1992, the Administrator or the State (in the case of a permit program approved under section 402 of this Act) shall not require a permit under this section for discharges composed entirely of stormwater.

(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to the following stormwater discharges:

(A) A discharge with respect to which a permit has been issued under this section before the date of the enactment of this subsection.

(B) A discharge associated with industrial activity.

(C) A discharge from a municipal separate storm sewer system serving a population of 250,000 or more.

(D) A discharge from a municipal separate storm sewer system serving a population of 100,000 or more but less than 250,000.

(E) A discharge for which the Administrator or the State, as the case may be, determines that the stormwater discharge contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States.

(3) PERMIT REQUIREMENTS.—

(A) INDUSTRIAL DISCHARGES.—Permits for discharges associated with industrial activity shall meet all applicable provisions of this section and section 301.

(B) MUNICIPAL DISCHARGE.—Permits for discharges from municipal storm sewers—

(i) may be issued on a system- or jurisdiction-wide basis;

(ii) shall include a requirement to effectively prohibit non-stormwater discharges into the storm sewers; and

(iii) shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants.

(4) PERMIT APPLICATION REQUIREMENTS.—

(A) INDUSTRIAL AND LARGE MUNICIPAL DISCHARGES.—Not later than 2 years after the date of the enactment of this subsection, the Administrator shall establish regulations

setting forth the permit application requirements for stormwater discharges described in paragraphs (2)(B) and (2)(C). Applications for permits for such discharges shall be filed no later than 3 years after such date of enactment. Not later than 4 years after such date of enactment, the Administrator or the State, as the case may be, shall issue or deny each such permit. Any such permit shall provide for compliance as expeditiously as practicable, but in no event later than 3 years after the date of issuance of such permit.

(B) OTHER MUNICIPAL DISCHARGES.—Not later than 4 years after the date of the enactment of this subsection, the Administrator shall establish regulations setting forth the permit application requirements for stormwater discharges described in paragraph (2)(D). Applications for permits for such discharges shall be filed no later than 5 years after such date of enactment. Not later than 6 years after such date of enactment, the Administrator or the State, as the case may be, shall issue or deny each such permit. Any such permit shall provide for compliance as expeditiously as practicable, but in no event later than 3 years after the date of issuance of such permit.

(5) STUDIES.—The Administrator, in consultation with the States, shall conduct a study for the purposes of—

(A) identifying those stormwater discharges or classes of stormwater discharges for which permits are not required pursuant to paragraphs (1) and (2) of this subsection;

(B) determining, to the maximum extent practicable, the nature and extent of pollutants in such discharges; and

(C) establishing procedures and methods to control stormwater discharges to the extent necessary to mitigate impacts on water quality.

Not later than October 1, 1988, the Administrator shall submit to Congress a report on the results of the study described in subparagraphs (A) and (B). Not later than October 1, 1989, the Administrator shall submit to Congress a report on the results of the study described in subparagraph (C).

(6) REGULATIONS.—Not later than October 1, 1992, the Administrator, in consultation with State and local officials, shall issue regulations (based on the results of the studies conducted under paragraph (5)) which designate stormwater discharges, other than those discharges described in paragraph (2), to be regulated to protect water quality and shall establish a comprehensive program to regulate such designated sources. The program shall, at a minimum, (A) establish priorities, (B) establish requirements for State stormwater management programs, and (C) establish expeditious deadlines. The program may include performance standards, guidelines, guidance, and management practices and treatment requirements, as appropriate.

OCEAN DISCHARGE CRITERIA

SEC. 403. (a) No permit under section 402 of this Act for a discharge into the territorial sea, the waters of the contiguous zone, or the oceans shall be issued, after promulgation of guidelines established under subsection (c) of this section, except in compliance with such guidelines. Prior to the promulgation of such guidelines, a permit may be issued under such section 402 if the Administrator determines it to be in the public interest.

(b) The requirements of subsection (d) of section 402 of this Act may not be waived in the case of permits for discharges into the territorial sea.

(c)(1) The Administrator shall, within one hundred and eighty days after enactment of this Act (and from time to time thereafter), promulgate guidelines for determining the degradation of the waters of the territorial seas, the contiguous zone, and the oceans, which shall include:

(A) the effect of disposal of pollutants on human health or welfare, including but not limited to plankton, fish, shellfish, wildlife, shorelines, and beaches;

(B) the effect of disposal of pollutants on marine life including the transfer, concentration, and dispersal of pollutants or their byproducts through biological, physical, and chemical processes; changes in marine ecosystem diversity, productivity, and stability; and species and community population changes;

(C) the effect of disposal, of pollutants on esthetic, recreation, and economic values;

(D) the persistence and permanence of the effects of disposal of pollutants;

(E) the effect of the disposal at varying rates, of particular volumes and concentrations of pollutants;

(F) other possible locations and methods of disposal or recycling of pollutants including land-based alternatives; and

(G) the effect on alternate uses of the oceans, such as mineral exploitation and scientific study.

(2) In any event where insufficient information exists on any proposed discharge to make a reasonable judgment on any of the guidelines established pursuant to this subsection no permit shall be issued under section 402 of this Act.

PERMITS FOR DREDGED OR FILL MATERIAL

SEC. 404. (a) The Secretary may issue permits, after notice and opportunity for public hearings for the discharge of dredged or fill material into the navigable waters at specified disposal sites. Not later than the fifteenth day after the date an applicant submits all the information required to complete an application for a permit under this subsection, the Secretary shall publish the notice required by this subsection.

(b) Subject to subsection (c) of this section, each such disposal site shall be specified for each such permit by the Secretary (1) through the application of guidelines developed by the Administrator, in conjunction with the Secretary, which guidelines shall be based upon criteria comparable to the criteria applicable to the territorial seas, the contiguous zone, and the ocean under section 403(c), and (2) in any case where such guidelines under clause (1) alone would prohibit the specification of a site, through the application additionally of the economic impact of the site on navigation and anchorage.

(c) The Administrator is authorized to prohibit the specification (including the withdrawal of specification) of any defined area as a disposal site, and he is authorized to deny or restrict the use of any defined area for specification (including the withdrawal of specification) as a disposal site, whenever he determines, after notice and opportunity for public hearings, that the discharge of such materials into such area will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreational areas. Before making such determination, the Administrator shall consult with the Secretary. The Administrator shall set forth in writing and make public his findings and his reasons for making any determination under this subsection.

(d) The term "Secretary" as used in this section means the Secretary of the Army, acting through the Chief of Engineers.

(e)(1) In carrying out his functions relating to the discharge of dredged or fill material under this section, the Secretary may, after notice and opportunity for public hearing, issue general permits on a State, regional, or nationwide basis for any category of activities involving discharges of dredged or fill material if the Secretary determines that the activities in such category are similar in nature, will cause only minimal adverse environmental effects when performed separately, and will have only minimal cumulative adverse effect on the environment. Any general permit issued under this subsection shall (A) be based on the guidelines described in subsection (b)(1) of this section, and (B) set forth the requirements and standards which shall apply to any activity authorized by such general permit.

(2) No general permit issued under this subsection shall be for a period of more than five years after the date of its issuance and such general permit may be revoked or modified by the Secretary if, after opportunity for public hearing, the Secretary determines that the activities authorized by such general permit have an adverse impact on the environment or such activities are more appropriately authorized by individual permits.

(f)(1) Except as provided in paragraph (2) of this subsection, the discharge of dredge or fill material—

(A) from normal farming, silviculture, and ranching activities such as plowing, seeding, cultivating, minor drainage, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices;

(B) for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dames, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures;

(C) for the purpose of construction or maintenance of farm or stock ponds or irrigation ditches, or the maintenance of drainage ditches;

(D) for the purpose of construction of temporary sedimentation basins on a construction site which does not include placement of fill material into the navigable waters;

(E) for the purpose of construction or maintenance or farm roads or forest roads, or temporary roads for moving mining equipment, where such roads are constructed and maintained, in accordance with best management practices, to assure that flow and circulation patterns and chemical and biological characteristics of the navigable waters are not impaired, that the reach of the navigable waters is not reduced, and that any adverse effect on the aquatic environment will be otherwise minimized;

(F) resulting from any activity with respect to which a State has an approved program, under section 208(b)(4) which meets the requirements of subparagraphs (B) and (C) of such section, is not prohibited by or otherwise subject to regulation under this section or section 301(a) or 402 of this act (except for effluent standards or prohibitions under section 307).

(2) Any discharge of dredged or fill material into the navigable waters incidental to any activity having as its purpose bringing an area of the navigable waters into a use to which it was not previously subject, where the flow or circulation of navigable waters may be impaired or the reach of such waters be reduced, shall be required to have a permit under this section.

(g)(1) The Governor of any State desiring to administer its own individual and general permit program for the discharge of dredged or fill material into the navigable waters (other than those waters which are presently used, or are susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce shoreward to their ordinary high water mark, including all waters which are subject to the ebb and flow of the tide shoreward to their mean high water mark, or mean higher high water mark on the west coast, including wetlands adjacent thereto), within its jurisdiction may submit to the Administrator a full and complete description of the program it proposes to establish and administer under State law or under an interstate compact. In addition, such State shall submit a statement from the attorney general (or the attorney for those State agencies which have independent legal counsel), or from the chief legal officer in the case of an interstate agency, that the laws of such State or the interstate compact, as the case may be, provide adequate authority to carry out the described program.

(2) Not later than the tenth day after the date of the receipt of the program and statement submitted by any State under paragraph (1) of this subsection, the Administrator shall provide copies of such program and statement to the Secretary and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service.

(3) No later than the ninetieth day after the date of the receipt by the Administrator of the program and statement submitted by any State, under paragraph (1) of this subsection, the Secretary and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, shall submit any comments with respect to such program and statement to the Administrator in writing.

(h)(1) Not later than the one-hundred-twentieth day after the date of the receipt by the Administrator of a program and statement submitted by any State under paragraph (1) of this subsection, the Administrator shall determine, taking into account any comments submitted by the Secretary and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, pursuant to subsection (g) of this section, whether such State has the following authority with respect to the issuance of permits pursuant to such program:

(A) To issue permits which—

(i) apply, and assure compliance with, any applicable requirements of this section, including, but not limited to, the guidelines established under subsection (b)(1) of this section, and sections 307 and 403 of this Act;

(ii) are for fixed terms not exceeding five years; and

(iii) can be terminated or modified for cause including, but not limited to, the following:

(I) violation of any condition of the permit;

(II) obtaining a permit by misrepresentation, or failure to disclose fully all relevant facts;

(III) change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

(B) To issue permits which apply, and assure compliance with, all applicable requirements of section 308 of this Act, or to inspect, monitor, enter, and require reports to at least the same extent as required in section 308 of this Act.

(C) To assure that the public, and any other State the waters of which may be affected, receive notice of each application for a permit and to provide an opportunity for public hearing before a ruling on each such application.

(D) To assure that the Administrator receives notices of each application (including a copy thereof) for a permit.

(E) To assure that any State (other than the permitting State), whose waters may be affected by the issuance of a permit may submit written recommendation to the permitting State (and the Administrator) with respect to any permit application and, if any part of such written recommendations are not accepted by the permitting State, that the permitting State will notify such affected State (and the Administrator) in writing of its failure to so accept such recommendations together with its reasons for so doing.

(F) To assure that no permit will be issued if, in the judgment of the Secretary, after consultation with the Secretary of the department in which the Coast Guard is operating, anchorage and navigation of any of the navigable waters would be substantially impaired thereby.

(G) To abate violations of the permit or the permit program, including civil and criminal penalties and other ways and means of enforcement.

(H) To assure continued coordination with Federal and Federal-State water-related planning and review processes.

(2) If, with respect to a State program submitted under subsection (g)(1) of this section, the Administrator determines that such State—

(A) has the authority set forth in paragraph (1) of this subsection, the Administrator shall approve the program and so notify (i) such State, and (ii) the Secretary, who upon subsequent notification from such State that it is administering such program, shall suspend the issuance of permits under subsections (a) and (e) of this section for activities with respect to which a permit may be issued pursuant to such State program; or

(B) does not have the authority set forth in paragraph (1) of this subsection, the Administrator shall so notify such State, which notification shall also describe the revisions or modifications necessary so that such State may resubmit such program for a determination by the Administrator under this subsection.

(3) If the Administrator fails to make a determination with respect to any program submitted by a State under subsection (g)(1) of this section within one-hundred-twenty days after the date of the receipt of such program, such program shall be deemed approved pursuant to paragraph (2)(A) of this subsection and the Administrator shall so notify such State and the Secretary who, upon subsequent notification from such State that it is administering such program, shall suspend the issuance of permits under subsection (a) and (e) of this section for activities with respect to which a permit may be issued by such State.

(4) After the Secretary receives notification from the Administrator under paragraph (2) or (3) of this subsection that a State permit program has been approved, the Secretary shall transfer any applications for permits pending before the Secretary for activities with respect to which a permit may be issued pursuant to such State program to such State for appropriate action.

(5) Upon notification from a State with a permit program approved under this subsection that such State intends to administer and enforce the terms and conditions of a general permit issued by the Secretary under subsection (e) of this section with respect to activities in such State to which such general permit applies, the Secretary shall suspend the administration and enforcement of such general permit with respect to such activities.

(i) Whenever the Administrator determines after public hearing that a State is not administering a program approved under section (h)(2)(A) of this section, in accordance with this section, including, but not limited to, the guidelines established under subsection (b)(1) of this section, the Administrator shall so notify the State, and, if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days after the date of the receipt of such notification, the Administrator shall (1) withdraw approval of such program until the Administrator determines such corrective action has been taken, and (2) notify the Secretary that the Secretary shall resume the programs for the issuance of permits under subsections (a) and (e) of this section for activities with respect to which the State was issuing permits and that such authority of the Secretary shall continue in effect until such time as the Administrator makes the determination described in clause (1) of this subsection and such State again has an approved program.

(j) Each State which is administering a permit program pursuant to this section shall transmit to the Administrator (1) a copy of each permit application received by such State and provide notice to the Administrator of every action related to the consideration of such permit application, including each permit proposed to be issued by such State, and (2) a copy of each proposed general permit which such State intends to issue. Not later than the tenth day after the date of the receipt of such permit application or such proposed general permit, the Administrator shall provide copies of such permit application or such proposed general permit to the Secretary and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service. If the Administrator intends to provide written comments to such State with respect to such permit application or such proposed general permit, he shall so notify such State not later than the thirtieth day after the date of the receipt of such application or such proposed general permit and provide such written comments to such State, after consideration of any comments made in writing with respect to such application or such proposed general permit by the Secretary and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, not later than the ninetieth day after the date of such receipt. If such State is so notified by the Administrator, it shall not issue the proposed permit until after the receipt of such comments from the Administrator, or after such ninetieth day, whichever first occurs. Such State shall not issue such proposed permit after such ninetieth day if it has received such written comments in which the Administrator objects (A) to the issuance of such proposed permit and such proposed permit is one that has been submitted to the Administrator pursuant to subsection (h)(1)(E), or (B) to the issuance of such proposed permit as being outside the requirements of this section, including, but not limited to, the guidelines developed under subsection (b)(1) of this section unless it modifies such proposed permit in accordance with such comments. Whenever the Administrator objects to the issuance of a permit under the preceding sentence such written objection shall contain a statement of the reasons for such objection and the conditions which such permit would include if it were issued by the Administrator. In any case where the Administrator objects to the issuance of a permit, on request of the State, a public hearing shall be held by the Administrator on such objection. If the State does not resubmit such permit revised to meet such objection within 30 days after completion of the hearing or, if no hearing is requested within 90 days after the date of such objection, the Secretary may issue the permit pursuant to subsection (a) or (e) of this section, as the case may be, for such source in accordance with the guidelines and requirements of this Act.

(k) In accordance with guidelines promulgated pursuant to subsection (i)(2) of section 304 of this Act, the Administrator is authorized to waive the requirements of subsection (j) of this section at the time of the approval of a program pursuant to subsection (h)(2)(A) of this section for any category (including any class, type, or size within such category) of discharge with the State submitting such program.

(l) The Administrator shall promulgate regulations establishing categories of discharges which he determines shall not be subject to the requirements of subsection (j) of this section in any State with a program approved pursuant to subsection (h)(2)(A) of this section.

The Administrator may distinguish among class, types, and sizes within any category of discharges.

(m) Not later than the ninetieth day afer the date on which the Secretary notifies the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service that (1) an application for a permit under subsection (a) of this section has been received by the Secretary, or (2) the Secretary proposes to issue a general permit under subsection (e) of this section, the Secretarty of the Interior, acting through the Director of the United States Fish and Wildlife Service, shall submit any comments with respect to such application or such proposed general permit in writing to the Secretary.

(n) Nothing in this section shall be construed to limit the authority of the Administrator to take action pursuant to section 309 of this Act.

(o) A copy of each permit application and each permit issued under this section shall be available to the public. Such permit application or portion thereof, shall further be available on request for the purpose of reproduction.

(p) Compliance with a permit issued pursuant to this section, including any activity carried out pursuant to a general permit issued under this section, shall be deemed compliance, for purposes of sections 309 and 505, with sections 301, 307, and 403.

(q) Not later than the one-hundred-eightieth day after the date of enactment of this subsection, the Secretary shall enter into agreements with the Administrator, the Secretaries of the Departments of Agriculture, Commerce, Interior, and Transportation, and the heads of other appropriate Federal agencies to minimize, to the maximum extend practicable, duplication, needless paperwork, and delays in the issuance of permits under this section. Such agreements shall be developed to assure that, to the maximum extent practicable, a decision with respect to an application for a permit under subsection (a) of this section will be made not later than the ninetieth day after the date of notice of such application is published under subsection (a) of this section.

(r) The discharge of dredged or fill material as part of the construction of a Federal project specifically authorized by Congress, whether prior to or on or after the date of enactment of this subsection, is not prohibited by or otherwise subject to regulation under this section, or a State program approved under this section, or section 301(a) or 402 of the Act (except for effluent standards or prohibitions under section 307) if information on the effects of such discharge, including consideration of the guidelines developed under subsection (b)(1) of this section, is included in an environmental impact statement for such project pursuant to the National Environmental Policy Act of 1969 and such environmental impact statement has been submitted to Congress before the actual discharge of dredged or fill material in connection with the construction of such project and prior to either authorization of such project or an appropriation of funds for each construction.

(s)(1) Whenever on the basis of any information available to him the Secretary finds that any person is in violation of any condition or limitation set forth in a permit issued by the Secretary under this section, the Secretary shall issue an order requiring such persons to comply with such condition or limitation, or the Secretary shall bring a civil action in accordance with paragraph (3) of this subsection.

(2) A copy of any order issued under this subsection shall be sent immediately by the Secretary to the State in which the violation occurs and other affected States. Any order issued under this subsection shall be by personal service and shall state with reasonable specificity the nature of the violation, specify a time for compliance, not to exceed thirty day, which the Secretary determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements. In any case in which an order under this subsection is issued to a corporation, a copy of such order shall be served on any appropriate corporate officers.

(3) The Secretary is authorized to commence a civil action for appropriate relief, including a permanent or temporary injunction for any violation for which he is authorized to issue a compliance order under paragraph (1) of this subsection. Any action under this paragraph may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction tor restrain such violation and to require compliance. Notice of the commencement of such action shall be given immediately to the appropriate State.

[(4)(A) Any person who willfully or negligently violates any condition or limitation in a permit issued by the Secretary under this section shall be punished by a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than one year, or by both. If the conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by fine of not more than $50,000 per day of violation, or by imprisonment for not more than two years, or by both.

[(B) For the purposes of this paragraph, the term "person" shall mean, in addition to the definition contained in section 502(5) of this Act, any responsible corporate officer.**]**

[(5)**]** *(4)* Any person who violates any condition or limitation in a permit issued by the Secretary under this section, and any person who violates any order issued by the Secretary under paragraph (1) of this subsection, shall be subject to a civil penalty not to exceed **[**$10,000 per day of such violation.**]** *$25,000 per day for each violation. In determining the amount of a civil penalty the court shall consider the seriousness of the violation or violations, the economic benefit (if any) resulting from the violation, any history of such violations, any good-faith efforts to comply with the applicable requirements, the economic impact of the penalty on the violator, and such other matters as justice may require.*

(t) Nothing in this section shall preclude or deny the right of any State or interstate agency to control the discharge of dredged or fill material in any portion of the navigable wates within the jurisdiction of such State, including any activity of any Federal agency, and each such agency shall comply with such State or interstate requirements both substantive and procedural to control the discharge of dredged or fill material to the same extent that any person is subject to such requirements. This section shall not be construed as affecting or impairing the authority of the Secretary to maintain navigation.

DISPOSAL OF SEWAGE SLUDGE

SEC. 405. (a) Notwithstanding any other provision of this Act, or of any other law, in the case where the disposal of sewage sludge resulting from the operation of a treatment works as defined in section 212 of this Act (including the removal of in-place sewage sludge from one location and its deposit at another location) would result in any pollutant from such sewage sludge entering the navigable waters, such disposal is prohibited except in accordance with a permit issued by the Administrator under section 402 of this Act.

(b) The Administrator shall issue regulations governing the issuance of permits for the disposal of sewage sludge subject to subsection (a) of this section and section 402 of this Act. Such regulations shall require the application to such disposal of each criterion, factor, procedure, and requirement applicable to a permit issued under section 402 of this title.

(c) Each State desiring to administer its own permit program for disposal of sewage sludge subject to subsection (a) of this section within its jurisdiction may do so, in accordance with section 402 of this Act.

(d) REGULATIONS.—

(1) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall develop and publish, within one year after the date of enactment of this subsection and from time to time thereafter, regulations providing guidelines for the disposal of sludge and the utilization of sludge for various purposes. Such regulations shall—

[(1)**]** *(A)* identify uses for sludge, including disposal;

[(2)**]** *(B)* specify factors to be taken into account in determining the measures and practices applicable to each such use or disposal (including publication of information on costs);

[(3)**]** *(C)* identify concentrations of pollutants which interfere with each such use or disposal.

The Administration is authorized to revise any regulation issued under this subsection.

(2) IDENTIFICATION AND REGULATION OF TOXIC POLLUTANTS.—

(A) ON BASIS OF AVAILABLE INFORMATION.—

(i) PROPOSED REGULATIONS.—Not later than November 30, 1986, the Administrator shall identify those toxic pollutants which, on the basis of available information on their toxicity, persistence, concentration, mobility, or potential for exposure, may be present in sewage sludge in concentrations which may adversely affect public health or the environment, and propose regulations specifying acceptable management practices for sewage sludge containing each such toxic pollutant and establishing numerical limitations for each such

pollutant for each use identified under paragraph (1)(A).

(ii) Final regulations.—Not later than August 31, 1987, and after opportunity for public hearing, the Administrator shall promulgate the regulations required by subparagraph (A)(i).

(B) Others.—

(i) Proposed regulations.—Not later than July 31, 1987, the Administrator shall identify those toxic pollutants not identified under subparagraph (A)(i) which may be present in sewage sludge in concentrations which may adversely affect public health or the environment, and propose regulations specifying acceptable management practices for sewage sludge containing each such toxic pollutant and establishing numerical limitations for each pollutant for each such use identified under paragraph (1)(A).

(ii) Final regulations.—Not later than June 15, 1988, the Administrator shall promulgate the regulations required by subparagraph (B)(i).

(C) Review.—From time to time, but not less often than every 2 years, the Administrator shall review the regulations promulgated under this paragraph for the purpose of identifying additional toxic pollutants and promulgating regulations for such pollutants consistent with the requirements of this paragraph.

(D) Minimum standards; compliance date.—The management practices and numerical criteria established under subparagraphs (A), (B), and (C) shall be adequate to protect public health and the environment from any reasonably anticipated adverse effects of each pollutant. Such regulations shall require compliance as expeditiously as practicable but in no case later than 12 months after their publication, unless such regulations require the construction of new pollution control facilities, in which case the regulations shall require compliance as expeditiously as practicable but in no case later than two years from the date of their publication.

(3) Alternative standards.—For purposes of this subsection, if, in the judgment of the Administrator, it is not feasible to prescribe or enforce a numerical limitation for a pollutant identified under paragraph (2), the Administrator may instead promulgate a design, equipment, management practice, or operational standard, or combination thereof, which in the Administrator's judgment is adequate to protect public health and the environment from any reasonably anticipated adverse effects of such pollutant. In the event the Administrator promulgates a design or equipment standard under this subsection, the Administrator shall include as part of such standard such requirements as will assure the proper operation and maintenance of any such element of design or equipment.

(4) Conditions on permits.—Prior to the promulgation of the regulations required by paragraph (2), the Administrator shall impose conditions in permits issued to publicly owned treatment works under section 402 of this Act or take such other measures

as the Administrator deems appropriate to protect public health and the environment from any adverse effects which may occur from toxic pollutants in sewage sludge.

(5) Limitation on statutory construction.—Nothing in this section is intended to waive more stringent requirements established by this Act or any other law.

[(e) The determination of the manner of disposal or use of sludge is a local determination except that it shall be unlawful for the owner or operator of any publicly owned treatment works to dispose of sludge from such works for any use for which guidelines have been established pursuant to subsection (d) of this section, except in accordance with such guidelines.]

(e) Manner of Sludge Disposal.—The determination of the manner of disposal or use of sludge is a local determination, except that it shall be unlawful for any person to dispose of sludge from a publicly owned treatment works or any other treatment works treating domestic sewage for any use for which regulations have been established pursuant to subsection (d) of this section, except in accordance with such regulations.

(f) Implementation of Regulations.—

(1) Through section 402 permits.—Any permit issued under section 402 of this Act to a publicly owned treatment works or any other treatment works treating domestic sewage shall include requirements for the use and disposal of sludge that implement the regulations established pursuant to subsection (d) of this section, unless such requirements have been included in a permit issued under the appropriate provisions of subtitle C of the Solid Waste Disposal Act, part C of the Safe Drinking Water Act, the Marine Protection, Research, and Sanctuaries Act of 1972, or the Clean Air Act, or under State permit programs approved by the Administrator, where the Administrator determines that such programs assure compliance with any applicable requirements of this section. Not later than December 15, 1986, the Administrator shall promulgate procedures for approval of State programs pursuant to this paragraph.

(2) Through other permits.—In the case of a treatment works described in paragraph (1) that is not subject to section 402 of this Act and to which none of the other above listed permit programs nor approved State permit authority apply, the Administrator may issue a permit to such treatment works solely to impose requirements for the use and disposal of sludge that implement the regulations established pursuant to subsection (d) of this section. The Administrator shall include in the permit appropriate requirements to assure compliance with the regulations established pursuant to subsection (d) of this section. The Administrator shall establish procedures for issuing permits pursuant to this paragraph.

(g) Studies and Projects.—

(1) Grant program; information gathering.—The Administrator is authorized to conduct or initiate scientific studies, demonstration projects, and public information and education projects which are designed to promote the safe and beneficial management or use of sewage sludge for such purposes as aiding the restoration of abandoned mine sites, conditioning

soil for parks and recreation areas, agricultural and horticultural uses, and other beneficial purposes. For the purposes of carrying out this subsection, the Administrator may make grants to State water pollution control agencies, other public or nonprofit agencies, institutions, organizations, and individuals. In cooperation with other Federal departments and agencies, other public and private agencies, institutions, and organizations, the Administrator is authorized to collect and disseminate information pertaining to the safe and beneficial use of sewage sludge.

(2) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out the scientific studies, demonstration projects, and public information and education projects authorized in this section, there is authorized to be appropriated for fiscal years beginning after September 30, 1986, not to exceed $5,000,000.

TITLE V—GENERAL PROVISIONS

ADMINISTRATION

SEC. 501. (a) The Administrator is authorized to prescribe such regulations as are necessary to carry out his functions under this Act.

(b) The Administrator, with the consent of the head of any other agency of the United States, may utilize such officers and employees of such agency as may be found necessary to assist in carrying out the purposes of this Act.

(c) Each recipient of financial assistance under this Act shall keep such records as the Administrator shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(d) The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of the recipients that are pertinent to the grants received under this Act. *For the purpose of carrying out audits and examinations with respect to recipients of Federal assistance under this Act, the Administrator is authorized to enter into noncompetitive procurement contracts with independent State audit organizations, consistent with chapter 75 of title 31, United States Code. Such contracts may only be entered into to the extent and in such amounts as may be provided in advance in appropriation Acts.*

(e)(1) It is the purpose of this subsection to authorize a program which will provide official recognition by the United States Government to those industrial organizations and political subdivisions of States which during the preceding year demonstrated an outstanding technological achievement or an innovative process, method, or device in their waste treatment and pollution abatement programs. The Administrator shall, in consultation with the appropriate State water pollution control agencies, establish regulations under which such recognition may be applied for and granted, except that no applicant shall be eligible for an award under this subsection if such applicant is not in total compliance with all applicable water quality requirements under this Act, or otherwise does not have a satisfactory record with respect to environmental quality.

(2) The Administrator shall award a certificate or plaque of suitable design to each industrial organization or political subdivision which qualifies for such recognition under regulations established under this subsection.

(3) The President of the United States, the Governor of the appropriate State, the Speaker of the House of Representatives, and the President pro tempore of the Senate shall be notified of the award by the Administrator and the awarding of such recognition shall be published in the Federal Register.

(f) Upon the request of a State water pollution control agency, personnel of the Environmental Protection Agency may be detailed to such agency for the purpose of carrying out the provisions of this Act.

GENERAL DEFINITIONS

SEC. 502. Except as otherwise specifically provided, when used in this Act:

(1) The term "State water pollution control agency" means the State agency designated by the Governor having responsibility for enforcing State laws relating to the abatement of pollution.

(2) The term "interstate agency" means an agency of two or more States established by or pursuant to an agreement or compact approved by the Congress, or any other agency of two or more States, having substantial powers or duties pertaining to the control of pollution as determined and approved by the Administrator.

(3) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, *the Commonwealth of the Northern Mariana Islands,* and the Trust Territory of the Pacific Islands.

(4) The term "municipality" means a city, town, borough, county, parish, district, association, or other public body created by or pursuant to State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of this Act.

(5) The term "person" means an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body.

(6) The term "pollutant" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, celler dirt and industrial, muncipal, and agricultural waste discharged into water. This term does not mean (A) "sewage from vesels" within the meaning of section 312 of this Act; or (B) water, gas, or other material which is injected into a well to facilitate production or oil or gas, or water derived in association with oil or gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is

located, and if such State determines that such injection or disposal will not result in the degradation of ground or surface water resources.

(7) The term "navigable waters" means the waters of the United States, including the territorial seas.

(8) The term "territorial seas" means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three miles.

(9) The term "contiguous zone" means the entire zone established or to be established by the United States under article 24 of the Convention of the Territorial Sea and the Contiguous Zone.

(10) The term "ocean" means any portion of the high seas beyond the contiguous zone.

(11) The term "effluent limitation" means any restriction established by a State or the Administrator on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into navigable waters, the waters of the contiguous zone, or the ocean, including schedules of compliance.

(12) The term "discharge of a pollutant" and the term "discharge of pollutants" each means (A) any addition of any pollutant to navigable waters from any point source, (B) any addition of any pollutant to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft.

(13) The term "toxic pollutant" means those pollutants, or combinations of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will, on the basis of information available to the Administrator, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction) or physical deformations, in such organisms or their offspring.

(14) The term "point source" means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include *agricultural stormwater discharges and* return flows from irrigated agriculture.

(15) The term "biological monitoring" shall mean the determination of the effects on aquatic life, including accumulation of pollutants in tissue, in receiving waters due to the discharge of pollutants (A) by techniques and procedures, including sampling of organisms representative of appropriate levels of the food chain appropriate to the volume and the physical, chemical, and biological characteristics of the effluent and (B) at appropriate frequencies and locations.

(16) The term "discharge" when used without qualification includes a discharge of a pollutant, and a discharge of pollutants.

(17) The term "schedule of compliance" means a schedule of remedial measures including an enforceable sequence of actions or

operations leading to compliance with an effluent limitation, other limitation prohibition, or standard.

(18) The term "industrial user" means those industries identified in the Standard Industrial Classification Manual, Bureau of the Budget, 1967, as amended and supplemented, under the category "Division D—Manufacturing" and such other classes of significant waste producers as, by regulation, the Administrator deems appropriate.

(19) The term "pollution" means the man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

WATER POLLUTION CONTROL ADVISORY BOARD

SEC. 503. (a)(1) There is hereby established in the Environmental Protection Agency a Water Pollution Control Advisory Board, composed of the Administrator or his designee, who shall be Chairman, and nine members appointed by the President, none of whom shall be Federal officers or employees. The appointed members, having due regard for the purposes of this Act, shall be selected from among representatives of various State, interstate, and local governmental agencies, of public or private interests contributing to, affected by, or concerned with pollution, and of other public and private agencies, organizations, or groups demonstrating an active interest in the field of pollution prevention and control, as well as other individuals who are expert in this field.

(2)(A) Each member appointed by the President shall hold office for a term of three years, except that (i) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (ii) the terms of office of the members first taking office after June 30, 1956, shall expire as follows: three at the end of one year after such date, three at the end of two years after such date, and three at the end of three years after such date, as designated by the President at the time of appointment, and (iii) the term of any member under the preceding provisions shall be extended until the date on which his successor's appointment is effective. None of the members appointed by the President shall be eligible for reappointment within one year after the end of his preceding term.

(B) The members of the Board who are not officers or employees of the United States, while attending conferences or meetings of the Board or while otherwise serving at the request of the Administrator, shall be entitled to receive compensation at a rate to be fixed by the Administrator, but not exceeding $100 per diem, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 73b–2) for persons in the Government service employed intermittently.

(b) The Board shall advise, consult with, and make recommendations to the Administrator on matters of policy relating to the activities and functions of the Administrator under this Act.

(c) Such clerical and technical assistance as may be necessary to discharge the duties of the Board shall be provided from the personnel of the Environmental Protection Agency.

EMERGENCY POWERS

SEC. 504. Notwithstanding any other provision of this Act, the Administrator upon receipt of evidence that a pollution source or combination of sources is presenting an imminent and substantial endangerment to the health of persons or to the welfare of persons where such endangerment is to the livelihood of such persons, such as inability to market shellfish, may bring suit on behalf of the United States in the appropriate district court to immediately restrain any person causing or contributing to the alleged pollution to stop the discharge of pollutants causing or contributing to such pollution or to take such other action as may be necessary.

CITIZEN SUITS

SEC. 505. (a) Except as provided in subsection (b) of this section, *and section 309(g)(6)* any citizen may commence a civil action on his own behalf—

(1) against any person (including (i) the United States, and (ii) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of (A) an effluent standard or limitation under this Act of (B) an order issued by the Administrator or a State with respect to such a standard or limitation, or

(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary with the Administrator.

The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such an effluent standard or limitation, or such an order, or to order the Administrator to perform such act or duty, as the case may be, and to apply any appropriate civil penalties under section 309(d) of this Act.

(b) No action may be commenced—

(1) under subsection (a)(1) of this section—

(A) prior to sixty days after the plaintiff has given notice of the alleged violation (i) to the Administrator, (ii) to the State in which the alleged violation occurs, and (iii) to any alleged violator of the standard, limitation, or order, or

(B) if the Administrator or State has commenced and is diligently prosecuting a civil or criminal action in a court of the United States, or a State to require compliance with the standard, limitation, or order, but in any such action in a court of the United States any citizen may intervene as a matter of right,

(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice of such action to the Administrator,

except that such action may be brought immeditely after such notification in the case of an action under this section respecting a violation of sections 306 and 307(a) of this Act. Notice under this subsection shall be given in such manner as the Administrator shall prescribe by regulation.

(c)(1) Any action respecting a violation by a discharge source of an effluent standard or limitation or an order respecting such standard or limitation may be brought under this section only in the judicial district in which such source is located.

(2) In such action under this section, the Administrator, if not a party, may intervene as a matter of right.

(3) PROTECTION OF INTERESTS OF UNITED STATES.—Whenever any action is brought under this section in a court of the United States, the plaintiff shall serve a copy of the complaint on the Attorney General and the Administrator. No consent judgment shall be entered in an action in which the United States is not a party prior to 45 days following the receipt of a copy of the proposed consent judgment by the Attorney General and the Administrator.

(d) The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any *prevailing or substantially prevailing* party, whenever the court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any effluent standard or limitation or to seek any other relief (including relief against the Administrator or a State agency).

(f) For purposes of this section, the term "effluent standard or limitation under this Act" means (1) effective July 1, 1973, an unlawful act under subsection (a) of section 301 of this Act; (2) an effluent limitation or other limitation under section 301 or 302 of this Act; (3) standard or performance under section 306 of this act; (4) prohibition, effluent standard or pretreatment standards under section 307 of this Act; (5) certification under section 401 of this Act; **[**or**]** (6) a permit or condition thereof issued under section 402 of this Act, which is in effect under this Act (including a requirement applicable by reason of section 313 of this Act)*; or (7) a regulation under section 405(d) of this Act*.

(g) For the purposes of this section the term "citizen" means a person or persons having an interest which is or may be adversely affected.

(h) A Governor of a State may commence a civil action under subsection (a), without regard to the limitations of subsection (b) of this section, against the Administrator where there is alleged a failure of the Administrator to enforce an effluent standard or limitation under this Act the violation of which is occurring in another State and is causing an adverse effect on the public health or welfare in his State or is causing a violation of any water quality requirement in his State.

APPEARANCE

SEC. 506. The Administrator shall request the Attorney General to appear and represent the United States in any civil or criminal action instituted under this Act to which the Administrator is a party. Unless the Attorney General notifies the Administrator within a reasonable time, that he will appear in a civil action, attorneys who are officers or employees of the Environmental Protection Agency shall appear and represent the United States in such action.

EMPLOYEE PROTECTION

SEC. 507. (a) No person shall fire, or in any other way discriminate against, or cause to be fired or discriminated against, any employee or any authorized representative of employees by reason of the fact that such employee or representative has filed, instituted, or caused to be filed or instituted any proceeding under this Act, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this Act.

(b) Any employee or a representative of employees who believes that he has been fired or otherwise discriminated against by any person in violation of subsection (a) of this section may, within thirty days after such alleged violation occurs, apply to the Secretary of Labor for a review of such firing or alleged discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the Secretary of Labor shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to such review to enable the parties to present information relating to such alleged violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation, the Secretary of labor shall make findings of fact. If he finds that such violation did occur, he shall issue a decision, incorporating an order therein and his findings, requiring the party committing such violation to take such affirmative action to abate the violation as the Secretary of Labor deems appropriate, including, but not limited to, the rehiring or reinstatement of the employee or representative of employees to his former position with compensation. If he finds that there was no such violation, he shall issue an order denying the application. Such order issued by the Secretary of Labor under this subparagraph shall be subject to judicial review in the same manner as orders and decisions of the Administrator are subject to judicial review under this Act.

(c) Whenever an order is issued under this section to abate such violation, at the request of the applicant, a sum equal to the aggregate amount of all costs and expenses (including the attorney's fees), as determined by the Secretary of Labor, to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing such violation.

(d) This section shall have no application to any employee who, acting without direction from his employer (or his agent) deliberately violates any prohibition of effluent limitation or other limitation under section 301 or 302 of this Act, standards of performance under section 306 of this Act, effluent standard, prohibition or pretreatment standard under section 307 of this Act, or any other prohibition or limitation established under this Act.

(e) The Administrator shall conduct continuing evaluations of potential loss or shifts of employment which may result from the issuance of any effluent limitation or order under this Act, including, where appropriate, investigating threatened plant closures or reductions in employment allegedly resulting from such limitation or order. Any employee who is discharged or laid off, threatened with discharge or lay-off, or otherwise discriminated against by any person because of the alleged results of any effluent limitation or order issued under this Act, or any representative of such employee, may request the Administrator to conduct a full investigation of the matter. The Administrator shall thereupon investigate the matter and, at the request of any party, shall hold public hearings on not less than five days notice, and shall at such hearings require the parties, including the employer involved, to present information relating to the actual or potential effect of such limitation or order on employment and on any alleged discharge, lay-off, or other discrimination and the detailed reasons or justification therefor. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation, the Administrator shall make findings of fact as to the effect of such effluent limitation or order on employment and on the alleged discharge, lay-off, or discrimination and shall make such recommendations as he deems appropriate. Such report, findings, and recommendations shall be available to the public. Nothing in this subsection shall be construed to require or authorize the Administrator to modify or withdraw any effluent limitation or order issued under this Act.

FEDERAL PROCUREMENT

Sec. 508. (a) No Federal agency may enter into any contract with any person, who has been convicted of any offense under section 309(c) of this Act, for the procurement of goods, materials, and services if such contract is to be performed at any facility at which the violation which gave rise to such conviction occurred, and if such facility is owned, leased, or supervised by such person. The prohibition in the preceding sentence shall continue until the Administrator certifies that the condition giving rise to such conviction has been corrected.

(b) The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a) of this section.

(c) In order to implement the purposes and policy of this Act to protect and enhance the quality of the Nation's water, the President shall, not more than one hundred and eighty days after enactment of this Act, cause to be issued an order (1) requiring each Federal agency authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of grant, loan, or contract to effectuate the purpose and policy of this Act in such contracting or assistance activities, and (2) setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.

(d) The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.

(e) The President shall annually report to the Congress on measures taken in compliance with the purpose and intent of this section, including, but not limited to, the progress and problems associated with such compliance.

ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

SEC. 509. (a)(1) For purposes of obtaining information under section 305 of this Act, or carrying out section 507(e) of this Act, the Administrator may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and he may administer oaths. Except for effluent data, upon a showing satisfactory to the Administrator that such papers, books, documents, or information or particular part thereof, if made public, would divulge trade secrets or secret processes, the Administrator shall consider such record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18 of the United States Code, except that such paper, book, document, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act, or when relevant in any proceeding under this Act. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the Unites States. In case of contumacy or refusal to obey a subpena served upon any person under this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator, to appear and produce papers, books, and documents before the Administrator, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(2) The district courts of the United States are authorized, upon application by the Administrator, to issue subpenas for attendance and testimony of witnesses and the production of relevant papers, books, and documents, for purposes of obtaining information under section 304 (b) and (c) of this Act. Any papers, books, documents, or other information or part thereof, obtained by reason of such a subpena shall be subject to the same requirements as are provided in paragraph (1) of this subsection.

(b)(1) Review of the Administrator's action (A) in promulgating any standard of performance under section 306, (B) in making any determination pursuant to section 306(b)(1)(C), (C) in promulgating any effluent standard, prohibition, or pretreatment standard under section 307, (D) in making any determination as to a State permit program submitted under section 402(b), (E) in approving or promulgating any effluent limitation or other limitation under section 301, 302, **[**or 306, and (F)**]** *306, or 405, (F)* in issuing or denying any permit under section 402, *and (G) in promulgating an individual control strategy under section 304(l),* may be had by any interested person in the Circuit Court of Appeals of the United States for the Federal judicial district in which such person resides or **[**transacts such business**]** *transacts business which is directly affected by such action* upon application by such person. Any such application shall be made within **[**ninety**]** *120* days from the date of such determination, approval, promulgation, issuance or denial, or after such date only if such application is based solely on grounds which arose after such **[**ninetieth**]** *120th* day.

(2) Action of the Administrator with respect to which review could have been obtained under paragraph (1) of this subsection shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

(3) VENUE.—

(A) SELECTION PROCEDURE.—If applications for review of the same agency action have been filed under paragraph (1) of this subsection in 2 or more Circuit Courts of Appeals of the United States and the Administrator has received written notice of the filing of one or more applications within 30 days or less after receiving written notice of the filing of the first application, then the Administrator shall promptly advise in writing the Administrative Office of the United States Courts that applications have been filed in 2 or more Circuit Courts of Appeals of the United States, and shall identify each court for which he has written notice that such applications have been filed within 30 days or less of receiving written notice of the filing of the first such application. Pursuant to a system of random selection devised for this purpose, the Administrative Office thereupon shall, within 3 business days of receiving such written notice from the Administrator, select the court in which the record shall be filed from among those identified by the Administrator. Upon notification of such selection, the Administrator shall promptly file the record in such court. For the purpose of review of agency action which has previously been remanded to the Administrator, the record shall be filed in the Circuit Court of Appeals of the United States which remanded such action.

(B) ADMINISTRATIVE PROVISIONS.—Where applications have been filed under paragraph (1) of this subsection in two or more Circuit Courts of Appeals of the United States with respect to the same agency action and the record has been filed in one of such courts pursuant to subparagraph (A), the other courts in which such applications have been filed shall promptly transfer such applications to the Circuit Court of Appeals of the United States in which the record has been filed. Pending selection of a court pursuant to subparagraph (A), any court in which an application has been filed under paragraph (1) of this subsection may postpone the effective date of the agency action until 15 days after the Administrative Office has selected the court in which the record shall be filed.

(C) Transfers.—Any court in which an application with respect to any agency action has been filed under paragraph (1) of this subsection, including any court selected pursuant to subparagraph (A), may transfer such application to any other Circuit Court of Appeals of the United States for the convenience of the parties or otherwise in the interest of justice.

(4) Award of fees.—In any judicial proceeding under this subsection, the court may award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing or substantially prevailing party whenever it determines that such award is appropriate.

(c) In any judicial proceeding brought under subsection (b) of this section in which review is sought of a determination under this Act required to be made on the record after notice and opportunity for hearing, if any party applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, in such manner and upon such terms and conditions as the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original determination, with the return of such additional evidence.

STATE AUTHORITY

Sec. 510. Except as expressly provided in this Act, nothing in this Act shall (1) preclude or deny the right of any State or political subdivision thereof, or interstate agency to adopt or enforce (A) any standard of limitation respecting discharges of pollutants, or (B) any requirement respecting control or abatement of pollution; except that if an effluent limitation, or other limitation, effluent standard, prohibition, pretreatment standard, or standard of performance is in effect under this Act, such State or political subdivision or interstate agency may not adopt or enforce any effluent limitation, or other limitation, effluent standard, prohibition, pretreatment standard, or standard of performance which is less stringent than the effluent limitation, or other limitation, effluent standard, prohibition, pretreatment standard, or standard of performance under this Act; or (2) be construed as impairing or in any manner affecting any right or jurisdiction of the States with respect to the waters (including boundary waters) of such States.

OTHER AFFECTED AUTHORITY

Sec. 511. (a) This Act shall not be construed as (1) limiting the authority or functions of any officer or agency of the United States under any other law or regulation not inconsistent with this Act; (2) affecting or impairing the authority of the Secretary of the Army (A) to maintain navigation or (B) under the Act of March 3, 1899 (30 Stat. 1112), except that any permit issued under section

404 of this Act shall be conclusive as to the effect on water quality of any discharge resulting from any activity subject to section 10 of the Act of March 3, 1899, or (3) affecting or impairing the provisions of any treaty of the United States.

(b) Discharges of pollutants into the navigable waters subject to the Rivers and Harbors Act of 1910 (36 Stat. 593; 33 U.S.C. 421) and the Supervisory Harbors Act of 1888 (25 Stat. 209; 33 U.S.C. 441-451b) shall be regulated pursuant to this Act, and not subject to such Act of 1910 and the Act of 1888 except as to effect on navigation and anchorage.

(c)(1) Except for the provision of Federal financial assistance for the purpose of assisting the construction of publicly owned treatment works as authorized by section 201 of this Act, and the issuance of a permit under section 402 of this Act for the discharge of any pollutant by a new source as defined in section 306 of this Act, no action of the Administrator taken pursuant to this Act shall be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 852); and

(2) Nothing in the National Environmental Policy Act of 1969 (83 Stat. 852) shall be deemed to—

(A) authorize any Federal agency authorized to license or permit the conduct of any activity which may result in the discharge of a pollutant into the navigable waters to review any effluent limitation or other requirement established pursuant to this Act or the adequacy of any certification under section 401 of this Act; or

(B) authorize any such agency to impose, as a condition precedent to the issuance of any license or permit, any effluent limitation other than any such limitation established pursuant to this Act.

(d) Notwithstanding this Act or any other provision of law, the Administrator (1) shall not require any State to consider in the development of the ranking in order of priority of needs for the construction of treatment works (as defined in title II of this Act), any water pollution control agreement which may have been entered into between the United States and any other nation, and (2) shall not consider any such agreement in the approval of any such priority ranking.

SEPARABILITY

Sec. 512. If any provision of this Act, or the application of any provision of this Act to any person or circumstances, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this Act, shall not be affected thereby.

LABOR STANDARDS

Sec. 513. The Administrator shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors or subcontractors on treatment works for which grants are made under this Act shall be paid wages at rates not less than those prevailing for the same type of work on similar construction in the immediate locality, as determined by the Secretary of Labor, in accordance with the Act of March 3, 1931, as amended, known as the Davis-Bacon Act (46 Stat. 1494; 40 U.S.C. sec. 276a through 276a–5). The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948; 40 U.S.C. 276c).

PUBLIC HEALTH AGENCY COORDINATION

SEC. 514. The permitting agency under section 402 shall assist the applicant for a permit under such section in coordinating the requirements of this Act with those of the appropriate public health agencies.

EFFLUENT STANDARDS AND WATER QUALITY INFORMATION ADVISORY COMMITTEE

SEC. 515. (a)(1) There is established an Efflunet Standards and Water Quality Information Advisory Committee, which shall be composed of a Chairman and eight members who shall be appointed by the administrator within sixty days after the date of enactment of this Act.

(2) All members of the Committee shall be selected from the scientific community, qualified by education, training, and experience to provide, assess, and evaluate scientific and technical information on effluent standards and limitations.

(3) Members of the Committee shall serve for a term of four years and may be reappointed.

(b)(1) No later than one hundred and eighty days prior to the date on which the Administrator is required to publish any proposed regulations required by section 304(b) of this Act, any proposed standard of performance for new sources required by section 306 of this Act, or any proposed toxic effluent standard required by section 307 of this Act, he shall transmit to the Committee a notice of intent to propose such regulations. The Chairman of the Committee within ten days after receipt of such notice may publish a notice of a public hearing by the Committee, to be held within thirty days.

(2) No later than one hundred and twenty days after receipt of such notice, the Committee shall transmit to the Administrator such scientific and technical information as is in its possession, including that presented at any public hearing, related to the subject matter contained in such notice.

(3) Information so transmitted to the Administrator shall constitute a part of the administrative record and comments on any proposed regulations or standards as information to be considered with other comments and information in making any final determinations.

(4) In preparing information for transmittal, the Committee shall avail itself of the technical and scientific services of any Federal agency, including the United States Geological Survey and any national environmental laboratories which may be established.

(c)(1) The Committee shall appoint and prescribe the duties of a Secretary, and such legal counsel as it deems necessary. The Committee shall apoint such other employees as it deems necessary to exercise and fulfills its powers and responsibilities. The compensation of all employees appointed by the Committee shall be fixed in accordance with chapter 51 and subchapter III of chapter 53 of title V of the United States Code.

(2) Members of the Committee shall be entitled to receive compensation at a rate to be fixed by the President but not in excess of the maximum rate of pay grade for GS-18, as provided in the General Schedule under section 5332 of title V of the United States Code.

(d) Five members of the Committee shall constitute a quorum, and official actions of the Committee shall be taken only on the affirmative vote of at least five members. A special panel composed of one or more members upon order of the Committee shall conduct any hearing authorized by this section and submit the transcript of such hearing to the entire Committee for its action thereon.

(e) The Committee is authorized to make such rules as are necessary for the orderly transaction of its business.

REPORTS TO CONGRESS

SEC. 516. (a) Within ninety days following the convening of each session of Congress, the Administrator shall submit to the Congress a report, in addition to any other report required by this Act, on measures taken toward implementing the objective of this Act, including, but not limited to, (1) the progress and problems associated with developing comprehensive plans under section 102 of this Act, areawide plans under section 208 of this Act, basin plans under section 209 of this Act, and plans under section 303(e) of this Act; (2) a summary of action taken and results achieved in the field of water pollution control research, experiments, studies, and related matters by the Administrator and other Federal agencies and by other persons and agencies under Federal grants or contracts; (3) the progress and problems associated with the development of effluent limitations and recommended control techniques; (4) the status of State programs, including a detailed summary of the progress obtained as compared to that planned under State program plans for development and enforcement of water quality requirements; (5) the identification and status of enforcement actions pending or completed under such Act during the preceding year; (6) the status of State, interstate, and local pollution control programs established pursuant to, and assisted by, this Act; (7) a summary of the result of the survey required to be taken under section 210 of this Act; (8) his activities including rcommendations under sections 109 through 111 of this Act; and (9) all reports and recommendations made by the Water Pollution Control Advisory Board.

(b)(1) The Administrator, in cooperation with the States, including water pollution control agencies and other water pollution control planning agencies, shall make (A) a detailed estimate of the cost of carrying out the provisions of this Act; (B) a detailed estimate, biennially revised, of the cost of construction of all needed publicly owned treatment works in all of the States and of the cost of construction of all needed publicly owned treatment works in each of the States; (C) a comprehensive study of the economic impact on affected units of government of the cost of installation of treatment facilities; and (D) a comprehensive analysis of the national requirements for and the cost of treating municipal, industrial, and other effluent to attain the water quality objectives as established by this Act or applicable State law. The Administrator shall submit such detailed estimate and such comprehensive study of such cost to the Congress no later than February 10 of each odd-numbered year. Whenever the administrator, pursuant to this subsection, requests and receives an estimate of cost from a State, he shall furnish copies of such estimate together with such detailed estimate to Congress.

(2) Notwithstanding the second sentence of paragraph (1) of this subsection, the administrator shall make a preliminary detailed estimate called for by subparagraph (B) of such paragraph and shall submit such preliminary detailed estimate to the Congress no later than September 3, 1974. The administrator shall require each State to prepare an estimate of cost for such State, and shall utilize the survey form EPA-1, O.M.B. No. 158-R0017, prepared for the 1973 detailed estimate, except that such estimate shall include all costs of compliance with section 201(g)(2)(A) of this Act and water quality standards established pursuant to section 303 of this Act, and all costs of treatment works as defined in section 212(2), including all eligible costs of constructing sewage collection systems and correcting excessive infiltration or inflow and all eligible costs of correcting combined storm and sanitary sewer problems and treating storm water flows. The survey form shall be distributed by the Administrator to each State no later than January 31, 1974.

(c) The Administrator shall submit to the Congress by October 1, 1978, a report on the status of combined sewer overflows in municipal treatment works operations. The report shall include (1) the status of any projects funded under this Act to address combined sewer overflows, (2) a listing by State of combined sewer overflow needs identified in the 1977 State priority listings, (3) an estimate for each applicable municipality of the number of years necessary, assuming an annual authorization and appropriation for the construction grants program of $5,000,000,000 to correct combined sewer overflow problems, (4) an analysis using representative municipalities faced with major combined sewer overflow needs, of the annual discharges of pollutants from oveflows in comparison to treated effluent discharges, (5) an analysis of the technological alternatives available to municipalities to correct major combined sewer overflow problems, and (6) any recommendations of the Administrator for legislation to address the problem of combined sewer overflows, including whether a separate authorization and grant program should be established by the Congress to address combined sewer overflows.

(d) The Administrator shall submit to the Congress by October 1, 1978, report on the status of the use of municipal secondary effluent and sludge for agricultural and other purposes that utilize the nutrient value of treated wastewater effluent. The report shall include (1) a summary of results of research and development programs, grants, and contracts carried out by the Environmental Protection Agency pursuant to sections 104 and 105 of this Act, regarding alternatives to disposal, landfill, or incineration of secondary effluent of sludge, (2) an estimate of the amount of sludge generated by public treatment works and its disposition, including an estimate of annual energy costs to incinerate sludge, (3) an analysis of current technologies for the utilization, reprocessing, and other uses of sludge to utilize the nutrient value of sludge, (4) legal, institutional, public health, economic, and other impediments to the greater utilization of treated sludge, and (5) any recommendations of the Administrator for legislation to encourage or require the expanded utilization of sludge for agricultural and other purposes. In carrying out this subsection, the Administrator shall consult with, and use the services of the Tennessee Valley Authority and other departments, agencies, and instrumentalities of the United States, to the extent it is appropriate to do so.

(e) The Administrator, in cooperation with the States, including water pollution control agencies, and other water pollution control planning agencies, and water supply and water resources agencies of the States and the United States shall submit to Congress, within two years of the date of enactment of this section, a report with recommendations for legislation on a program to require coordination between water supply and wastewater control plans as a condition to grants for construction of treatment works under this Act. No such report shall be submitted except after opportunity for public hearings on such proposed report.

(f) RESERVED.

(g) STATE REVOLVING FUND REPORT.—

(1) IN GENERAL.—Not later than February 10, 1990, the Administrator shall submit to Congress a report on the financial status and operations of water pollution control revolving funds established by the States under title VI of this Act. The Administrator shall prepare such report in cooperation with the States, including water pollution control agencies and other water pollution control planning and financing agencies.

(2) CONTENTS.—The report under this subsection shall also include the following:

(A) an inventory of the facilities that are in significant noncompliance with the enforceable requirements of this Act;

(B) an estimate of the cost of construction necessary to bring such facilities into compliance with such requirements;

(C) an assessment of the availability of sources of funds for financing such needed construction, including an estimate of the amount of funds available for providing assistance for such construction through September 30, 1999, from the water pollution control revolving funds established by the States under title VI of this Act;

(D) an assessment of the operations, loan portfolio, and loan conditions of such revolving funds;

(E) an assessment of the effect on user charges of the assistance provided by such revolving funds compared to the

assistance provided with funds appropriated pursuant to section 207 of this Act; and

(F) an assessment of the efficiency of the operation and maintenance of treatment works constructed with assistance provided by such revolving funds compared to the efficiency of the operation and maintenance of treatment works constructed with assistance provided under section 201 of this Act.

GENERAL AUTHORIZATION

SEC. 517. There are authorized to be appropriated to carry out this Act, other than sections 104, 105, 106(a), 107, 108, 112, 113, 114, 115, 206, 207, 208 (f) and (h), 209, 304, 311 (c), (d), (i), (l), and (k), 314, 315, and 317, $250,000,000 for the fiscal year ending June 30, 1973, $300,000,000 for the fiscal year ending June 30, 1974, $350,000,000 for the fiscal year ending June 30, 1975, $100,000,000 for the fiscal year ending September 30, 1977, $150,000,000 for the fiscal year ending September 30, 1978, $150,000,000 for the fiscal year ending September 30, 1979, $150,000,000 for the fiscal year ending September 30, 1980, $150,000,000 for the fiscal year ending September 30, 1981, **[**and**]** $160,000,000 for the fiscal year ending September 30, 1982, *such sums as may be necessary for fiscal years 1983 through 1985, and $135,000,000 per fiscal year for each of the fiscal years 1986 through 1990.*

SEC. 518. INDIAN TRIBES.

(a) POLICY.—Nothing in this section shall be construed to affect the application of section 101(g) of this Act, and all of the provisions of this section shall be carried out in accordance with the provisions of such section 101(g). Indian tribes shall be treated as States for purposes of such section 101(g).

(b) ASSESSMENT OF SEWAGE TREATMENT NEEDS; REPORT.—The Administrator, in cooperation with the Director of the Indian Health Service, shall assess the need for sewage treatment works to serve Indian tribes, the degree to which such needs will be met through funds allotted to States under section 205 of this Act and priority lists under section 216 of this Act, and any obstacles which prevent such needs from being met. Not later than one year after the date of the enactment of this section, the Administrator shall submit a report to Congress on the assessment under this subsection, along with recommendations specifying (1) how the Administrator intends to provide assistance to Indian tribes to develop waste treatment management plans and to construct treatment works under this Act, and (2) methods by which the participation in and administration of programs under this Act by Indian tribes can be maximized.

(c) RESERVATION OF FUNDS.—The Administrator shall reserve each fiscal year beginning after September 30, 1986, before allotments to the States under section 205(e), one-half of one percent of the sums appropriated under section 207. Sums reserved under this subsection shall be available only for grants for the development of waste treatment management plans and for the construction of sewage treatment works to serve Indian tribes.

(d) COOPERATIVE AGREEMENTS.—In order to ensure the consistent implementation of the requirements of this Act, an Indian tribe and the State or States in which the lands of such tribe are located may enter into a cooperative agreement, subject to the review and approval of the Administrator, to jointly plan and administer the requirements of this Act.

(e) TREATMENT AS STATES.—The Administrator is authorized to treat an Indian tribe as a State for purposes of title II and sections 104, 106, 303, 305, 308, 309, 314, 319, 401, 402, and 404 of this Act to the degree necessary to carry out the objectives of this section, but only if—

(1) the Indian tribe has a governing body carrying out substantial governmental duties and powers;

(2) the functions to be exercised by the Indian tribe pertain to the management and protection of water resources which are held by an Indian tribe, held by the United States in trust for Indians, held by a member of an Indian tribe if such property interest is subject to a trust restriction on alienation, or otherwise within the borders of an Indian reservation; and

(3) the Indian tribe is reasonably expected to be capable, in the Administrator's judgment, of carrying out the functions to be exercised in a manner consistent with the terms and purposes of this Act and of all applicable regulations.

Such treatment as a State may include the direct provision of funds reserved under subsection (c) to the governing bodies of Indian tribes, and the determination of priorities by Indian tribes, where not determined by the Administrator in cooperation with the Director of the Indian Health Service. The Administrator, in cooperation with the Director of the Indian Health Service, is authorized to make grants under title II of this Act in an amount not to exceed 100 percent of the cost of a project. Not later than 18 months after the date of the enactment of this section, the Administrator shall, in consultation with Indian tribes, promulgate final regulations which specify how Indian tribes shall be treated as States for purposes of this Act. The Administrator shall, in promulgating such regulations, consult affected States sharing common water bodies and provide a mechanism for the resolution of any unreasonable consequences that may arise as a result of differing water quality standards that may be set by States and Indian tribes located on common bodies of water. Such mechanism shall provide for explicit consideration of relevant factors including, but not limited to, the effects of differing water quality permit requirements on upstream and downstream dischargers, economic impacts, and present and historical uses and quality of the waters subject to such standards. Such mechanism should provide for the avoidance of such unreasonable consequences in a manner consistent with the objective of this Act.

(f) GRANTS FOR NONPOINT SOURCE PROGRAMS.—The Administrator shall make grants to an Indian tribe under section 319 of this Act as though such tribe was a State. Not more than one-third of one percent of the amount appropriated for any fiscal year under section 319 may be used to make grants under this subsection. In addition to the requirements of section 319, an Indian tribe shall be

required to meet the requirements of paragraphs (1), (2), and (3) of subsection (d) of this section in order to receive such a grant.

(g) ALASKA NATIVE ORGANIZATIONS.—No provision of this Act shall be construed to—

(1) grant, enlarge, or diminish, or in any way affect the scope of the governmental authority, if any, of any Alaska Native organization, including any federally-recognized tribe, traditional Alaska Native council, or Native council organized pursuant to the Act of June 18, 1934 (48 Stat. 987), over lands or persons in Alaska;

(2) create or validate any assertion by such organization or any form of governmental authority over lands or persons in Alaska; or

(3) in any way affect any assertion that Indian country, as defined in section 1151 of title 18, United States Code, exists or does not exist in Alaska.

(h) DEFINITIONS.—For purposes of this section, the term—

(1) "Federal Indian reservation" means all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation; and

(2) "Indian tribe" means any Indian tribe, band, group, or community recognized by the Secretary of the Interior and exercising governmental authority over a Federal Indian reservation.

SHORT TITLE

SEC. [518.] *519.* This Act may be cited as the "Federal Water Pollution Control Act" (commonly referred to as the Clean Water Act).

TITLE VI—STATE WATER POLLUTION CONTROL REVOLVING FUNDS

SEC. 601. GRANTS TO STATES FOR ESTABLISHMENT OF REVOLVING FUNDS.

(a) GENERAL AUTHORITY.—Subject to the provisions of this title, the Administrator shall make capitalization grants to each State for the purpose of establishing a water pollution control revolving fund for providing assistance (1) for construction of treatment works (as defined in section 212 of this Act) which are publicly owned, (2) for implementing a management program under section 319, and (3) for developing and implementing a conservation and management plan under section 320.

(b) SCHEDULE OF GRANT PAYMENTS.—The Administrator and each State shall jointly establish a schedule of payments under which the Administrator will pay to the State the amount of each grant to be made to the State under this title. Such schedule shall be based on the State's intended use plan under section 606(c) of this Act, except that—

(1) such payments shall be made in quarterly installments, and

(2) such payments shall be made as expeditiously as possible, but in no event later than the earlier of—

(A) 8 quarters after the date such funds were obligated by the State, or

(B) 12 quarters after the date such funds were allotted to the State.

SEC. 602. CAPITALIZATION GRANT AGREEMENTS.

(a) GENERAL RULE.—To receive a capitalization grant with funds made available under this title and section 205(m) of this Act, a State shall enter into an agreement with the Administrator which shall include but not be limited to the specifications set forth in subsection (b) of this section.

(b) SPECIFIC REQUIREMENTS.—The Administrator shall enter into an agreement under this section with a State only after the State has established to the satisfaction of the Administrator that—

(1) the State will accept grant payments with funds to be made available under this title and section 205(m) of this Act in accordance with a payment schedule established jointly by the Administrator under section 601(b) of this Act and will deposit all such payments in the water pollution control revolving fund established by the State in accordance with this title;

(2) the State will deposit in the fund from State moneys an amount equal to at least 20 percent of the total amount of all capitalization grants which will be made to the State with funds to be made available under this title and section 205(m) of this Act on or before the date on which each quarterly grant payment will be made to the State under this title;

(3) the State will enter into binding commitments to provide assistance in accordance with the requirements of this title in an amount equal to 120 percent of the amount of each such grant payment within 1 year after the receipt of such grant payment;

(4) all funds in the fund will be expended in an expeditious and timely manner;

(5) all funds in the fund as a result of capitalization grants under this title and section 205(m) of this Act will first be used to assure maintenance of progress, as determined by the Governor of the State, toward compliance with enforceable deadlines, goals, and requirements of this Act, including the municipal compliance deadline;

(6) treatment works eligible under section 603(c)(1) of this Act which will be constructed in whole or in part before fiscal year 1995 with funds directly made available by capitalization grants under this title and section 205(m) of this Act will meet the requirements of, or otherwise be treated (as determined by the Governor of the State) under sections 201(b), 201(g)(1), 201(g)(2), 201(g)(3), 201(g)(5), 201(g)(6), 201(n)(1), 201(o), 204(a)(1), 204(a)(2), 204(b)(1), 204(d)(2), 211, 218, 511(c)(1), and 513 of this Act in the same manner as treatment works constructed with assistance under title II of this Act;

(7) in addition to complying with the requirements of this title, the State will commit or expend each quarterly grant payment which it will receive under this title in accordance with laws and procedures applicable to the commitment or expenditure of revenues of the State;

(8) in carrying out the requirements of section 606 of this Act, the State will use accounting, audit, and fiscal procedures conforming to generally accepted government accounting standards;

(9) the State will require as a condition of making a loan or providing other assistance, as described in section 603(d) of this Act, from the fund that the recipient of such assistance will maintain project accounts in accordance with generally accepted government accounting standards; and

(10) the State will make annual reports to the Administrator on the actual use of funds in accordance with section 606(d) of this Act.

SEC. 603. WATER POLLUTION CONTROL REVOLVING LOAN FUNDS.

(a) REQUIREMENTS FOR OBLIGATION OF GRANT FUNDS.—Before a State may receive a capitalization grant with funds made available under this title and section 205(m) of this Act, the State shall first establish a water pollution control revolving fund which complies with the requirements of this section.

(b) ADMINISTRATION.—Each State water pollution control revolving fund shall be administered by an instrumentality of the State with such powers and limitations as may be required to operate such fund in accordance with the requirements and objectives of this Act.

(c) PROJECTS ELIGIBLE FOR ASSISTANCE.—The amounts of funds available to each State water pollution control revolving fund shall be used only for providing financial assistance (1) to any municipality, intermunicipal, interstate, or State agency for construction of publicly owned treatment works (as defined in section 212 of this Act), (2) for the implementation of a management program established under section 319 of this Act, and (3) for development and implementation of a conservation and management plan under section 320 of this Act. The fund shall be established, maintained, and credited with repayments, and the fund balance shall be available in perpetuity for providing such financial assistance.

(d) TYPES OF ASSISTANCE.—Except as otherwise limited by State law, a water pollution control revolving fund of a State under this section may be used only—

(1) to make loans, on the condition that—

(A) such loans are made at or below market interest rates, including interest free loans, at terms not to exceed 20 years;

(B) annual principal and interest payments will commence not later than 1 year after completion of any project and all loans will be fully amortized not later than 20 years after project completion;

(C) the recipient of a loan will establish a dedicated source of revenue for repayment of loans; and

(D) the fund will be credited with all payments of principal and interest on all loans;

(2) to buy or refinance the debt obligation of municipalities and intermunicipal and interstate agencies within the State at or below market rates, where such debt obligations were incurred after March 7, 1985;

(3) to guarantee, or purchase insurance for, local obligations where such action would improve credit market access or reduce interest rates;

(4) as a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the State if the proceeds of the sale of such bonds will be deposited in the fund;

(5) to provide loan guarantees for similar revolving funds established by municipalities or intermunicipal agencies;

(6) to earn interest on fund accounts; and

(7) for the reasonable costs of administering the fund and conducting activities under this title, except that such amounts shall not exceed 4 percent of all grant awards to such fund under this title.

(e) LIMITATION TO PREVENT DOUBLE BENEFITS.—If a State makes, from its water pollution revolving fund, a loan which will finance the cost of facility planning and the preparation of plans, specifications, and estimates for construction of publicly owned treatment works, the State shall ensure that if the recipient of such loan receives a grant under section 201(g) of this Act for construction of such treatment works and an allowance under section 201(l)(1) of this Act for non-Federal funds expended for such planning and preparation, such recipient will promptly repay such loan to the extent of such allowance.

(f) CONSISTENCY WITH PLANNING REQUIREMENTS.—A State may provide financial assistance from its water pollution control revolving fund only with respect to a project which is consistent with plans, if any, developed under sections 205(j), 208, 303(e), 319, and 320 of this Act.

(g) PRIORITY LIST REQUIREMENT.—The State may provide financial assistance from its water pollution control revolving fund only with respect to a project for construction of a treatment works described in subsection (c)(1) if such project is on the State's priority list under section 216 of this Act. Such assistance may be provided regardless of the rank of such project on such list.

(h) ELIGIBILITY OF NON-FEDERAL SHARE OF CONSTRUCTION GRANT PROJECTS.—A State water pollution control revolving fund may provide assistance (other than under subsection (d)(1) of this section) to a municipality or intermunicipal or interstate agency with respect to the non-Federal share of the costs of a treatment works project for which such municipality or agency is receiving assistance from the Administrator under any other authority only if such assistance is necessary to allow such project to proceed.

SEC. 604. ALLOTMENT OF FUNDS.

(a) FORMULA.—Sums authorized to be appropriated to carry out this section for each of fiscal years 1989 and 1990 shall be allotted by the Administrator in accordance with section 205(c) of this Act.

(b) RESERVATION OF FUNDS FOR PLANNING.—Each State shall reserve each fiscal year 1 percent of the sums allotted to such State under this section for such fiscal year, or $100,000, whichever amount is greater, to carry out planning under sections 205(j) and 303(e) of this Act.

(c) ALLOTMENT PERIOD.—

(1) Period of availability for grant award.—Sums allotted to a State under this section for a fiscal year shall be available for obligation by the State during the fiscal year for which sums are authorized and during the following fiscal year.

(2) Reallotment of unobligated funds.—The amount of any allotment not obligated by the State by the last day of the 2-year period of availability established by paragraph (1) shall be immediately reallotted by the Administrator on the basis of the same ratio as is applicable to sums allotted under title II of this Act for the second fiscal year of such 2-year period. None of the funds reallotted by the Administrator shall be reallotted to any State which has not obligated all sums allotted to such State in the first fiscal year of such 2-year period.

SEC. 605. CORRECTIVE ACTION.

(a) Notification of Noncompliance.—If the Administrator determines that a State has not complied with its agreement with the Administrator under section 602 of this Act or any other requirement of this title, the Administrator shall notify the State of such noncompliance and the necessary corrective action.

(b) Withholding of Payments.—If a State does not take corrective action within 60 days after the date a State receives notification of such action under subsection (a), the Administrator shall withhold additional payments to the State until the Administrator is satisfied that the State has taken the necessary corrective action.

(c) Reallotment of Withheld Payments.—If the Administrator is not satisfied that adequate corrective actions have been taken by the State within 12 months after the State is notified of such actions under subsection (a), the payments withheld from the State by the Administrator under subsection (b) shall be made available for reallotment in accordance with the most recent formula for allotment of funds under this title.

SEC. 606. AUDITS, REPORTS, AND FISCAL CONTROLS; INTENDED USE PLAN.

(a) Fiscal Control and Auditing Procedures.—Each State electing to establish a water pollution control revolving fund under this title shall establish fiscal controls and accounting procedures sufficient to assure proper accounting during appropriate accounting periods for—

(1) payments received by the fund;

(2) disbursements made by the fund; and

(3) fund balances at the beginning and end of the accounting period.

(b) Annual Federal Audits.—The Administrator shall, at least on an annual basis, conduct or require each State to have independently conducted reviews and audits as may be deemed necessary or appropriate by the Administrator to carry out the objectives of this section. Audits of the use of funds deposited in the water pollution revolving fund established by such State shall be conducted in accordance with the auditing procedures of the General Accounting Office, including chapter 75 of title 31, United States Code.

(c) Intended Use Plan.—After providing for public comment and review, each State shall annually prepare a plan identifying the intended uses of the amounts available to its water pollution control

revolving fund. Such intended use plan shall include, but not be limited to—

(1) a list of those projects for construction of publicly owned treatment works on the State's priority list developed pursuant to section 216 of this Act and a list of activities eligible for assistance under sections 319 and 320 of this Act;

(2) a description of the short- and long-term goals and objectives of its water pollution control revolving fund;

(3) information on the activities to be supported, including a description of project categories, discharge requirements under titles III and IV of this Act, terms of financial assistance, and communities served;

(4) assurances and specific proposals for meeting the requirements of paragraphs (3), (4), (5), and (6) of section 602(b) of this Act; and

(5) the criteria and method established for the distribution of funds.

(d) ANNUAL REPORT.—Beginning the first fiscal year after the receipt of payments under this title, the State shall provide an annual report to the Administrator describing how the State has met the goals and objectives for the previous fiscal year as identified in the plan prepared for the previous fiscal year pursuant to subsection (c), including identification of loan recipients, loan amounts, and loan terms and similar details on other forms of financial assistance provided from the water pollution control revolving fund.

(e) ANNUAL FEDERAL OVERSIGHT REVIEW.—The Administrator shall conduct an annual oversight review of each State plan prepared under subsection (c), each State report prepared under subsection (d), and other such materials as are considered necessary and appropriate in carrying out the purposes of this title. After reasonable notice by the Administrator to the State or the recipient of a loan from a water pollution control revolving fund, the State or loan recipient shall make available to the Administrator such records as the Administrator reasonably requires to review and determine compliance with this title.

(f) APPLICABILITY OF TITLE II PROVISIONS.—Except to the extent provided in this title, the provisions of title II shall not apply to grants under this title.

SEC. 607. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out the purposes of this title the following sums:

(1) $1,200,000,000 per fiscal year for each of fiscal years 1989 and 1990;

(2) $2,400,000,000 for fiscal year 1991;

(3) $1,800,000,000 for fiscal year 1992;

(4) $1,200,000,000 for fiscal year 1993; and

(5) $600,000,000 for fiscal year 1994.

NOTE

The following provisions of Public Law 96–483 do not amend the Clean Water Act:

SEC. 2(a) * * *

* * * * * * *

(c) The Administrator of the Environmental Protection Agency shall take such action as may be necessary to remove from any grant made under section 201(g)(1) of the Federal Water Pollution Control Act after March 1, 1973, and prior to the date of enactment of this Act, any condition or requirement no longer applicable as a result of the repeals made by subsections (a) and (b) of this section or release any grant recipient of the obligations established by such conditions of other requirement.

* * * * * * *

(f)(1) Section 75(b) of the Federal Water Pollution Control Act of 1977 (91 Stat. 1610) is hereby repealed.

(2) Section 75(d) of the Clean Water Act of 1977 (91 Stat. 1610) is hereby repealed.

(g) The amendments made by this section shall take effect on December 27, 1977.

* * * * * * *

SEC. 4. The Administrator of the Environmental Protection Agency shall study and report to the Congress not later than March 15, 1981, on the effect of the amendment made by section 3 on the construction of publicly owned treatment works, industrial participation in publicly owned treatment works, treatment of industrial discharges, and the appropriate degree of Federal and non-Federal participation in the funding of publicly owned treatment works.

* * * * * * *

SEC. 7. Notwithstanding section 205(d) of the Federal Water Pollution Control Act (33 U.S.C. 1285), sums allotted to the States for the fiscal year 1979 shall remain available for obligation for the fiscal year for which authorized and for the period of the next succeeding twenty-four months. The amount of any allotment not obligated by the end of such thirty-six month period shall be immediately reallotted by the Administrator on the basis of the same ratio as applicable to sums allotted for the then current fiscal year, except that none of the funds reallotted by the Administrator for fiscal year 1979 shall be allotted to any State which failed to obligate any of the funds being reallotted. Any sum made available to a State by reallotment under this section shall be in addition to any funds otherwise allotted to such State for grants under title II of the Federal Water Pollution Control Act during any fiscal year. This section shall take effect on September 30, 1980.

* * * * * * *

SEC. 12. The Administrator of the Environmental Protection Agency is authorized to make grants to States to undertake a demonstration program for the cleanup of State-owned abandoned mines which can be used as hazardous waste disposal sites. The State shall pay 10 per centum of project costs. At a minimum, the Administrator shall undertake projects under such program in the State of Ohio, Illinois, and West Virginia. There are authorized to be appropriated $10,000,000 per fiscal year for each of the fiscal years ending September 30, 1982, September 30, 1983, and September 30, 1984, to carry out this section. Such projects shall be undertaken in accordance with all applicable laws and regulations.

The following provisions of Public Law 97-117 do not amend the Clean Water Act:

REVISED WATER QUALITY STANDARDS

SEC. 24. The review, revision, and adoption or promulgation of revised or new water quality standards pursuant to section 303(c) of the Federal Water Pollution Control Act shall be completed by the date three years after the enactment of the Municipal Wastewater Treatment Construction Grant Amendments of 1981. No grant shall be made under title II of Federal Water Pollution Control Act after such date until water quality standards are reviewed and revised pursuant to section 303(c), except where the State has in good faith submitted such revised water quality standards and the Administrator has not acted to approve or disapprove such submission within one hundred and twenty days of receipt.

NEEDS SURVEY

SEC. 25. The Administrator of the Environmental Protection Agency shall submit to the Congress, not later than December 31, 1982, a report containing the detailed estimates, comprehensive study, and comprehensive analysis required by section 516(b) of the Federal Water Pollution Control Act, including an estimate of the total cost and the amount of Federal funds necessary for the construction of needed publicly owned treatment facilities. Such report shall be prepared in the same manner as is required by such section and shall reflect the changes made in the Federal water pollution control program by this Act and the amendments made by this Act. In preparing this report, the Administrator shall give emphasis to the effects of the amendment made by section 2(a) of this Act in addressing water quality needs adequately and appropriately.

JUDICIAL NOTICE

SEC. 26. It is the sense of Congress that judicial notice should be taken of this Act and of the amendments to the Federal Water Pollution Control Act made by this Act, including reduced authorization levels under section 207 of such Act, and that the parties to Federal consent decrees establishing a deadline, schedule, or timetable for the construction of publicly owned treatment works are encouraged to reexamine the provisons of such consent decrees and, where required by equity, to make appropriate adjustments in such provisions.

BATH TOWNSHIP

SEC. 27. For purposes of the Federal Water Pollution Control Act, the project for publicly owned treatment works for Bath Township, Michigan, shall be eligible for payments from sums allocated to the State of Michigan under such Act in an amount equal to the amount such works would be eligible for section 202 of such Act if such works were to be constructed after the date of enactment of this Act, at the original construction cost.

The following provisions of Public Law 100-4 do not amend the Clean Water Act:

SEC. 105. RESEARCH ON EFFECTS OF POLLUTANTS.

In carrying out the provisions of section 104(a) of the Federal Water Pollution Control Act, the Administrator shall conduct research on the harmful effects on the health and welfare of persons caused by pollutants in water, in conjunction with the United States Fish and Wildlife Service, the National Oceanic and Atmospheric Administration, and other Federal, State, and interstate agencies carrying on such research. Such research shall include, and shall place special emphasis on, the effect that bioaccumulation of these pollutants in aquatic species has upon reducing the value of aquatic commercial and sport industries. Such research shall further study methods to reduce and remove these pollutants from the relevant affected aquatic species so as to restore and enhance these valuable resources.

SEC. 202. FEDERAL SHARE.

* * * * * * *

(e) INNOVATIVE PROCESS.—The activated bio-filter featuere of the project for treatment works of the city of Little Falls, Minnesota, shall be deemed to be an innovative wastewater process and technique for purposes of section 202(a)(2) of the Federal Water Pollution Control Act and the amount of any grant under such Act for such feature shall be 85 percent of the cost thereof.

(f) AVAILABILITY OF CERTAIN FUNDS FOR NON-FEDERAL SHARE.—Notwithstanding any other provision of law, Federal assistance made available by the Farmers Home Administration to any political subdivision of a State may be used to provide the non-Federal share of the cost of any construction project carried out under section 201 of the Federal Water Pollution Control Act.

SEC. 213. IMPROVEMENT PROJECTS.

(a) AVALON, CALIFORNIA.—The Administrator shall make a grant of $3,000,000 from funds allotted under section 205 of the Federal Water Pollution Control Act to the State of California for fiscal year 1987 to the city of Avalon, California, for improvements to the publicly owned treatment works of such city.

(b) WALKER AND SMITHFIELD TOWNSHIPS, PENNSYLVANIA.—Out of funds available for grants in the State of Pennsylvania under the third sentence of section 201(g)(1) of the Federal Water Pollution Control Act in fiscal year 1987, the Administrator shall make grants—

(1) to Walker Township, Pennsylvania, for developing a collector system and connecting its wastewater treatment system into the Huntingdon Borough, Pennsylvania, sewage treatment plant, and

(2) to Smithfield Township, Pennsylvania, for rehabilitating and extending its collector system.

(c) TAYLOR MILL, KENTUCKY.—Notwithstanding section 201(g)(1) of the Federal Water Pollution Control Act or any other provision of law, the Administrator shall make a grant of $250,000 from funds allotted under section 205 of such Act to the State of Kentucky for fiscal year 1986 to the city of Taylor Mill, Kentucky, for the repair and reconstruction, as necessary, of the publicly owned treatment works of such city.

(d) NEVADA COUNTY, CALIFORNIA.—Out of funds available for grants in the State of California under the third sentence of section 201(g)(1) of the Federal Water Pollution Control Act in fiscal year 1987, the Administrator shall make a grant for the construction of a collection system serving the Glenshire/Devonshire area of Nevada County, California, to deliver waste to the Tahoe-Truckee Sanitary District's regional wastewater treatment facility.

(e) TREATMENT WORKS FOR WANAQUE, NEW JERSEY.—In fiscal year 1987 and succeeding fiscal years, the Administrator shall make grants to the Wanaque Valley Regional Sewerage Authority, New Jersey, from funds allotted under section 205 of the Federal Water Pollution Control Act to the State of New Jersey for such fiscal year, for the construction of treatment works with a total treatment capacity of 1,050,000 gallons per day (including a treatment module with a treatment capacity of 350,000 gallons per day). Notwithstanding section 202 of such Act, the Federal share of the cost of construction of such treatment works shall be 75 percent.

(f) TREATMENT WORKS FOR LENA, ILLINOIS.—The Administrator shall make grants to the village of Lena, Illinois, from funds allotted under section 205 of the Federal Water Pollution Control Act to the State of Illinois for fiscal years beginning after September 30, 1986, for the construction of a replacement moving bed filter press for the treatment works of such village. Notwithstanding section 202 of the Federal Water Pollution Control Act, the Federal share of the cost of construction of such project shall be 75 percent.

(g) PRIORITY FOR COURT-ORDERED AND OTHER PROJECTS.—The State of Pennsylvania, from funds allotted to it under section 205 of the Federal Water Pollution Control Act, shall give priority for construction of—

(1) the Wyoming Valley Sanitary Authority Secondary Treatment project mandated under Federal court order, regardless of the date of start of construction made pursuant to the court order; and

(2) a project for wastewater treatment for Altoona, Pennsylvania.

SEC. 214. CHICAGO TUNNEL AND RESERVOIR PROJECT.

The Chicago tunnel and reservoir project may receive grants under the last sentence of section 201(g)(1) of the Federal Water Pollution Control Act without regard to the limitation contained in such sentence if the Administrator determines that such project meets the cost-effectiveness requirements of sections 217 and 218 of such Act without any redesign or reconstruction and if the Governor of the affected State demonstrates to the satisfaction of the Administrator the water quality benefits of such project.

SEC. 215. AD VALOREM TAX DEDICATION.

For the purposes of complying with section 204(b)(1) of the Federal Water Pollution Control Act, the ad valorem tax user charge systems of the town of Hampton and the city of Nashua, New

Hampshire, shall be deemed to have been dedicated as of December 27, 1977. The Administrator shall review such ad valorem tax user charge systems for compliance with the remaining requirements of such section and related regulations of the Environmental Protection Agency.

SEC. 301. COMPLIANCE DATES.

* * * * * * *

(f) DEADLINES FOR REGULATIONS FOR CERTAIN TOXIC POLLUTANTS.—The Administrator shall promulgate final regulations establishing effluent limitations in accordance with sections 301(b)(2)(A) and 307(b)(1) of the Federal Water Pollution Control Act for all toxic pollutants referred to in table 1 of Committee Print Numbered 95-30 of the Committee on Public Works and Transportation of the House of Representatives which are discharged from the categories of point sources in accordance with the following table:

Category	Date by which the final regulation shall be promulgated
Organic chemicals and plastics and synthetic fibers	December 31, 1986.
Pesticides	December 31, 1986.

SEC. 306. FUNDAMENTALLY DIFFERENT FACTORS.

* * * * * * *

(c) PHOSPHATE FERTILIZER EFFLUENT LIMITATION.—

(1) ISSUANCE OF PERMIT.—As soon as possible after the date of the enactment of this Act, but not later than 180 days after such date of enactment, the Administrator shall issue permits under section 402(a)(1)(B) of the Federal Water Pollution Control Act with respect to facilities—

(A) which were under construction on or before April 8, 1974, and

(B) for which the Administrator is proposing to revise the applicability of the effluent limitation established under section 301(b) of such Act for phosphate subcategory of the fertilizer manufacturing point source category to exclude such facilities.

(2) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed—

(A) to require the Administrator to permit the discharge of gypsum or gypsum waste into the navigable waters,

(B) to affect the procedures and standards applicable to the Administrator in issuing permits under section 402(a)(1)(B) of the Federal Water Pollution Control Act, and

(C) to affect the authority of any State to deny or condition certification under section 401 of such Act with respect to the issuance of permits under section 402(a)(1)(B) of such Act.

SEC. 308. INDIVIDUAL CONTROL STRATEGIES FOR TOXIC POLLUTANTS.

* * * * * * *

(g) Water Quality Improvement Study.—

(1) Study.—The Administrator shall study the water quality improvements which have been achieved by application of best available technology economically achievable pursuant to section 301(b)(2) of the Federal Water Pollution Control Act. Such study shall include, but not be limited to, an analysis of the effectiveness of the application of best available technology economically achievable pursuant to such section in attaining applicable water quality standards (including the standard specified in section 302(a) of such Act) and an analysis of the effectiveness of the water quality program under such Act and methods of improving such program, including site specific levels of treatment which will achieve the water quality goals of such Act.

(2) Report.—Not later than 2 years after the date of the enactment of this Act, the Administrator shall submit a report on the results of the study conducted under subsection (a) together with recommendations for improving the water quality program and its effectiveness to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate.

SEC. 309. PRETREATMENT STANDARDS.

* * * * * * *

(b) Increase in EPA Employees.—The Administrator shall take such actions as may be necessary to increase the number of employees of the Environmental Protection Agency in order to effectively implement pretreatment requirements under section 307 of the Federal Water Pollution Control Act.

SEC. 314. ADMINISTRATIVE PENALTIES.

* * * * * * *

(b) Reports on Enforcement Mechanisms.—The Secretary of the Army and the Administrator shall each prepare and submit a report to the Congress, not later than December 1, 1988, which shall examine and analyze various enforcement mechanisms for use by the Secretary or Administrator, as the case may be, including an administrative civil penalty mechanism. Each of such reports shall also include an examination, prepared in consultation with the Comptroller General, of the efficacy of the Secretary's or the Administrator's existing enforcement authorities and shall include recommendations for improvements in their operation.

SEC. 317. NATIONAL ESTUARY PROGRAM.

(a) Purposes and Policies.—

(1) Findings.—Congress finds and declares that—

(A) the Nation's estuaries are of great importance for fish and wildlife resources and recreation and economic opportunity;

(B) maintaining the health and ecological integrity of these estuaries is in the national interest;

(C) increasing coastal population, development, and other direct and indirect uses of these estuaries threaten their health and ecological integrity;

(D) long-term planning and management will contribute to the continued productivity of these areas, and will maximize their utility to the Nation; and

(E) better coordination among Federal and State programs affecting estuaries will increase the effectiveness and efficiency of the national effort to protect, preserve, and restore these areas.

(2) PURPOSES.—The purposes of this section are to—

(A) identify nationally significant estuaries that are threatened by pollution, development, or overuse;

(B) promote comprehensive planning for, and conservation and management of, nationally significant estuaries;

(C) encourage the preparation of management plans for estuaries of national significance; and

(D) enhance the coordination of estuarine research.

SEC. 318. UNCONSOLIDATED QUATERNARY AQUIFER.

Notwithstanding any other provision of law, no person may—

(1) locate or authorize the location of a landfill, surface impoundment, waste pile, injection well, or land treatment facility over the Unconsolidated Quaternary Aquifer, or the recharge zone or streamflow source zone of such aquifer, in the Rockaway River Basin, New Jersey (as such aquifer and zones are described in the Federal Register, January 24, 1984, pages 2946–2948); or

(2) place or authorize the placement of solid waste in a landfill, surface impoundment, waste pile, injection well, or land treatment facility over such aquifer or zone.

This section may be enforced under sections 309 (a) and (b) of the Federal Water Pollution Control Act. For purposes of section 309(c) of such Act, a violation of this section shall be considered a violation of section 301 of the Federal Water Pollution Control Act.

SEC. 404. ANTI-BACKSLIDING.

* * * * * * *

(c) STUDY.—The Administrator shall study—

(1) the extent to which States have reviewed, revised, and adopted water quality standards in accordance with section 24 of the Municipal Wastewater Treatment Construction Grant Amendments of 1981; and

(2) the extent to which modifications of permits issued under section 402(a)(1)(B) of the Federal Water Pollution Control Act for the purpose of reflecting any revisions to water quality standards should be encouraged or discouraged.

The Administrator shall submit a report on such study, together with recommendations, to Congress not later than 2 years after the date of the enactment of this Act.

SEC. 406. SEWAGE SLUDGE.

* * * * * * *

(e) Removal Credits.—The part of the decision of *Natural Resources Defense Council, Inc.* v. *U.S. Environmental Protection Agency,* No. 84-3530 (3d. Cir. 1986), which addresses section 405(d) of the Federal Water Pollution Control Act is stayed until August 31, 1987, with respect to—

(1) those publicly owned treatment works the owner or operator of which received authority to revise pretreatment requirements under section 307(b)(1) of such Act before the date of the enactment of this section, and

(2) those publicly owned treatment works the owner or operator of which has submitted an application for authority to revise pretreatment requirements under such section 307(b)(1) which application is pending on such date of enactment and is approved before August 31, 1987.

The Administrator shall not authorize any other removal credits under such Act until the Administrator issues the regulations required by paragraph (2)(A)(ii) of section 405(d) of such Act, as amended by subsection (a) of this section.

SEC. 407. LOG TRANSFER FACILITIES.

(a) Agreement.—The Administrator and Secretary of the Army shall enter into an agreement regarding coordination of permitting for log transfer facilities to designate a lead agency and to process permits required under sections 402 and 404 of the Federal Water Pollution Control Act, where both such sections apply, for discharges associated with the construction and operation of log transfer facilities. The Administrator and Secretary are authorized to act in accordance with the terms of such agreement to assure that, to the maximum extent practicable, duplication, needless paperwork and delay in the issuance of permits, and inequitable enforcement between and among facilities in different States, shall be eliminated.

(b) Applications and Permits Before October 22, 1985.—Where both of sections 402 and 404 of the Federal Water Pollution Control Act apply, log transfer facilities which have received a permit under section 404 of such Act before October 22, 1985, shall not be required to submit a new application for a permit under section 402 of such Act. If the Administrator determines that the terms of a permit issued on or before October 22, 1985, under section 404 of such Act satisfies the applicable requirements of sections 301, 302, 306, 307, 308, and 403 of such Act, a separate application for a permit under section 402 of such Act shall not thereafter be required. In any case where the Administrator demonstrates, after an opportunity for a hearing, that the terms of a permit issued on or before October 22, 1985, under section 404 of such Act do not satisfy the applicable requirements of sections 301, 302, 306, 307, 308, and 403 of such Act, modifications to the existing permit under section 404 of such Act to incorporate such applicable requirements shall be issued by the Administrator as an alternative to issuance of a separate new permit under section 402 of such Act.

(c) Log Transfer Facility Defined.—For the purposes of this section, the term "log transfer facility" means a facility which is constructed in whole or in part in waters of the United States and which is utilized for the purpose of transferring commercially harvested logs to or from a vessel or log raft, including the formation of a log raft.

SEC. 507. DEFINITION OF POINT SOURCE.

For purposes of the Federal Water Pollution Control Act, the term "point source" includes a landfill leachate collection system.

SEC. 508. SPECIAL PROVISIONS REGARDING CERTAIN DUMPING SITES.

(a) FINDING.—The Congress finds that the New York Bight Apex is no longer a suitable location for the ocean dumping of municipal sludge.

(b) GENERAL RULE.—Title I of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.) is further amended by inserting after section 104 the following new section:

"SPECIAL PROVISIONS REGARDING CERTAIN DUMPING SITES

"SEC. 104A. (a) NEW YORK BIGHT APEX.—(1) For purposes of this subsection:

"(A) The term 'Apex' means the New York Bight Apex consisting of the ocean waters of the Atlantic Ocean westward of 73 degrees 30 minutes west longitude and northward of 40 degrees 10 minutes north latitude.

"(B) The term 'Apex site' means that site within the Apex at which the dumping of municipal sludge occurred before October 1, 1983.

"(C) The term 'eligible authority' means any sewerage authority or other unit of State or local government that on November 2, 1983, was authorized under court order to dump municipal sludge at the Apex site.

"(2) No person may apply for a permit under this title in relation to the dumping of, or the transportation for purposes of dumping, municipal sludge within the Apex unless that person is an eligible authority.

"(3) The Administrator may not issue, or renew, any permit under this title that authorizes the dumping of, or the transportation for purposes of dumping, municipal sludge within the Apex after the earlier of—

"(A) December 15, 1987; or

"(B) the day determined by the Administrator to be the first day on which municipal sludge generated by eligible authorities can reasonably be dumped at a site designated under section 102 other than a site within the Apex.

"(b) RESTRICTION ON USE OF THE 106-MILE SITE.—The Administrator may not issue or renew any permit under this title which authorizes any person, other than a person that is an eligible authority within the meaning of subsection (a)(1)(C), to dump, or to transport for the purposes of dumping, municipal sludge within the site designated under section 102(c) by the Administrator and known as the '106-Mile Ocean Waste Dump Site' (as described in 49 F.R. 19005).".

SEC. 509. OCEAN DISCHARGE RESEARCH PROJECTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator is authorized to issue a research permit to the Orange County, California, Sanitation Districts for the discharge of preconditioned municipal sewage sludge into the ocean for the purpose of enabling research to be conducted in assessing and analyzing the effects of disposing of sewage sludge by pipeline into ocean waters—

(1) if the Administrator is satisfied that such local governmental agency is actively pursuing long-term land-based options for the handling of its sludge with special emphasis on remote disposal alternatives set forth in the 1980 LA/OMA sludge management project and on reuse of sludge or use of recycled sludge; and

(2) if the Administrator determines that there is no likelihood of an unacceptable adverse effect on the environment as a result of issuance of such permit and that such permit would meet the requirements of paragraph (2) of section 301(h) of the Federal Water Pollution Control Act, as amended by this Act, and of the sentences following the first sentence of such section if such permit were being issued under such section.

(b) PERMIT TERMS.—

(1) PERIOD.—The permit for the discharge of sludge shall be for a period of 5 years commencing on the date of such discharge and shall not be extended or renewed.

(2) MONITORING.—Such permit shall provide for monitoring (including whole effluent monitoring) of permitted discharges and other discharges into the ocean in the same area and the effects of such discharges (including cumulative effects) in conformance with requirements established by the Administrator, after consultation with appropriate Federal and State agencies, and for the reporting of such monitoring to Congress and the Administrator every 6 months.

(3) VOLUME OF DISCHARGE.—Such permit shall provide that the volume of such local agency's sludge disposed of by such experimental pipeline shall be no more than one and one-half times that being disposed of by such remote disposal and alternatives for the reuse of sludge and the use of recycled sludge. In no event shall the agency dispose of more than 50 percent of its sludge by the pipeline.

(4) TERMINATION.—The permit shall provide for termination of the permit if the Administrator determines that the disposal of sewage sludge is resulting in an unacceptable adverse impact on fish, shellfish, and wildlife. The Administrator may terminate a permit issued under this section if the Administrator determines that there has been a decline in ambient water quality of the receiving waters during the period of the permit even if a direct cause and effect relationship cannot be shown. If the effluent from a source with a permit issued under this section is contributing to a decline in ambient water quality of the receiving waters, the Administrator shall terminate such permit.

(c) LIMITATION ON PRECEDENT.—The facts and circumstances described in subsection (a) present a unique situation which will not establish a precedent for the relaxation of the requirements of the Federal Water Pollution Control Act applicable to similarly situated discharges.

(d) **Report.**—Such districts shall report the results of the program and an analysis of such program to Congress under this section not later than four and one-half years after issuance of the permit.

SEC. 510. SAN DIEGO, CALIFORNIA.

(a) **Purpose.**—The purpose of this section is to protect the economy, public health, environment, surface water and public beaches, and water quality of the city of San Diego, California, and surrounding areas, which are endangered and are being polluted by raw sewage emanating from the city of Tijuana, Mexico.

(b) **Construction Grants.**—Upon approval of the necessary plans and specifications, the Administrator is authorized to make grants to the Secretary of State, acting through the American Section of the International Boundary and Water Commission (hereinafter in this section referred to as the "Commission"), or any other Federal agency or any other appropriate commission or entity designated by the President. Such grants shall be for construction of a project consisting of—

(1) defensive treatment works to protect the residents of the city of San Diego, California, and surrounding areas from pollution resulting from any inadequacies or breakdowns in wastewater treatment works and systems in Mexico; and

(2) treatment works in the city of San Diego, California, to provide primary or more advanced treatment of municipal sewage and industrial waste from Mexico, including the city of Tijuana, Mexico.

(c) **Limitation on Grants.**—Notwithstanding subsection (b), the Administrator may make grants for construction of treatment works described in subsection (b)(2) only if, after public notice and comment, the Administrator determines that treatment works in Mexico, in conjunction with any defensive treatment works constructed under this or any other Act, are not sufficient to protect the residents of the city of San Diego, California, and surrounding areas from water pollution originating in Mexico.

(d) **Operation and Maintenance.**—The Commission or such other agency, commission, or entity as may be designated under subsection (b) is authorized to operate and maintain any treatment works constructed under subsection (b) in order to accomplish the purposes of this section.

(e) **Approval of Plans.**—Any treatment works for which a grant is made under this section shall be constructed in accordance with plans developed by the Commission or such other agency, commission, or entity as may be designated under subsection (b), in consultation with the city of San Diego, and approved by the Administrator to meet the construction standards which would be applicable if such treatment works were being constructed under title II of the Federal Water Pollution Control Act.

(f) **Federal Share.**—Construction of the treatment works under subsection (b) shall be at full Federal expense less any costs paid by the State of California and less any costs paid by the Government of Mexico as a result of agreements negotiated with the United States.

(g) **Ocean Outfall Permit.**—Notwithstanding section 301(j) of the Federal Water Pollution Control Act, upon application of the city of San Diego, California, the Administrator may issue a permit under section 301(h) of such Act which modifies the requirements of section 301(b)(1)(B) of such Act to permit the discharge of pollutants for any ocean outfall constructed with Federal assistance under this section if the Administrator finds that issuing such permit is in the best interests of achieving the goals and requirements of such Act. The Administrator may waive the requirements of section 301(h)(5) of such Act with respect to the issuance of such permit if the Administrator finds that such waiver is in the best interests of achieving the goals and requirements of such Act.

(h) **Treatment of San Diego Sewage.**—If any treatment works constructed pursuant to this section becomes no longer necessary to provide protection from pollution originating in Mexico, the city of San Diego, California, may use such treatment works to treat municipal and individual waste originating in the city of San Diego and surrounding areas if the city of San Diego enters into a binding agreement with the Administrator to pay to the United States 45 percent of the costs incurred in the construction of such treatment works.

(i) **Definitions.**—For purposes of this section, the terms "construction" and "treatment works" have the meanings such terms have under section 212 of the Federal Water Pollution Control Act.

(j) **Authorization of Appropriations.**—There is authorized to be appropriated for fiscal years beginning after September 30, 1986, such sums as may be necessary to the Administrator to make grants under this section and such sums as may be necessary to the Commission or such other agency, commission, or entity as the President may designate under subsection (b), to carry out this section.

SEC. 511. LIMITATION ON DISCHARGE OF RAW SEWAGE BY NEW YORK CITY.

(a) **In General.**—

(1) **North river plant.**—If the wastewater treatment plant identified in the consent decree as the North River plant has not achieved advanced preliminary treatment as required under the terms of the consent decree by August 1, 1986, the city of New York shall not discharge raw sewage from the drainage area of such plant (as defined in the consent decree) into navigable waters after such date in an amount which is greater for any 30-day period than an amount equal to 30 times the average daily amount of raw sewage discharged from such drainage area during the 12-month period ending on the earlier of the date on which such plant becomes operational or March 15, 1986 (as determined by the Administrator), except as provided in subsection (b).

(2) **Red hook plant.**—If the wastewater treatment plant identified in the consent decree as the Red Hook plant has not achieved advanced preliminary treatment as required under the terms of the consent decree by August 1, 1987, the city of New York shall not discharge raw sewage from the drainage area of such plant (as defined in the consent decree) into navi-

gable waters after such date in an amount which is greater for any 30-day period than an amount equal to 30 times the average daily amount of raw sewage discharged from such drainage area during the 12-month period ending on the earlier of the date on which such plant becomes operational or March 15, 1987 (as determined by the Administrator), except as provided in subsection (b).

(b) WAIVERS.—

(1) INTERRUPTION OF PLANT OPERATION.—In the event of any significant interruption in the operation of the North River plant or the Red Hook plant caused by an event described in subparagraph (A), (B), or (C) of paragraph (5) occurring after the applicable deadline established under subsection (a), the Administrator shall waive the limitation of subsection (a) with respect to such plant, but only to such extent and for such limited period of time as may be reasonably necessary for the city of New York to resume operation of such plant.

(2) INCREASED PRECIPITATION.—In the event that the volume of precipitation occurring after the applicable deadline established under subsection (a) causes the discharge of raw sewage to exceed the limitation under subsection (a), the Administrator shall waive the limitation of subsection (a) with respect to either or both such plants, but only to such extent and for such limited period of time as the Administrator determines to be necessary to take into account the increased discharge caused by such volume of precipitation.

(3) VARIATIONS IN CERTAIN NORTH RIVER DRAINAGE AREA DISCHARGES.—In the event that an increase in discharges from the North River drainage area constituting a violation of subsection (a)(1) is due to a random or seasonal variation, and that any sewer hookup occurring, or permit for a sewer hookup granted, after July 31, 1986, is not responsible for such violation, the Administrator shall waive the limitation of subsection (a)(1), but only to such extent and for such limited period of time as the Administrator determines to be reasonably necessary to take into account such random or seasonal variation.

(4) VARIATIONS IN CERTAIN RED HOOK DRAINAGE AREA DISCHARGES.—In the event that an increase in discharges from the Red Hook drainage area constituting a violation of subsection (a)(2) is due to a random or seasonal variation, and that any sewer hookup occurring, or permit for a sewer hookup granted, after July 31, 1987, is not responsible for such violation, the Administrator shall waive the limitation of subsection (a)(2), but only to such extent and for such limited period of time as the Administrator determines to be reasonably necessary to take into account such random or seasonal variation.

(5) CIRCUMSTANCES BEYOND CITY'S CONTROL.—The Administrator shall extend either deadline under paragraph (1) or (2) of subsection (a) to such extent and for such limited period of time as may be reasonably required to take into account any—

(A) act of war,

(B) unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight, or

(C) other circumstances beyond the control of the city of New York, except such circumstances shall not include (i) the unavailability of Federal funds under section 201 of the Federal Water Pollution Control Act, (ii) the unavailability of funds from the city of New York or the State of New York, or (iii) a policy decision made by the city of New York or the State of New York to delay the achievement of advanced preliminary treatment at the North River plant or Red Hook plant beyond the applicable deadline set forth in subsection (a).

(c) PENALTIES.—Except as otherwise provided in subsection (b), any violation of subsection (a) shall be considered to be a violation of section 301 of the Federal Water Pollution Control Act, and all provisions of such Act relating to violations of such section 301 shall apply.

(d) CONSENT DECREE DEFINED.—For purposes of this section, the term "consent decree" means the consent decree entered into by the Environmental Protection Agency, the city of New York, and the State of New York, on December 30, 1982, relating to construction and operation of the North River and Red Hook wastewater treatment plants.

(e) COOPERATION.—The Administrator shall work with the city of New York to eliminate the discharge of raw sewage by such city at the earliest practicable date.

(f) SAVINGS CLAUSE.—Nothing in this section shall be construed as modifying the terms of the consent decree.

(g) SENSE OF CONGRESS.—It is the sense of Congress that the Administrator should not agree to any further modification of the consent decree with respect to the schedule for achieving advanced preliminary treatment.

(h) TERMINATION DATES.—

(1) NORTH RIVER PLANT.—The provisions of this section shall remain in effect with respect to the North River drainage area until such time as the North River plant has achieved advanced preliminary treatment (as defined in the consent decree) for a period of six consecutive months.

(2) RED HOOK PLANT.—The provisions of this section shall remain in effect with respect to the Red Hook drainage area until such time as the Red Hook plant has achieved advanced preliminary treatment (as defined in the consent decree) for a period of six consecutive months.

(i) MONITORING ACTIVITIES.—The Administrator shall promptly establish and carry out a program within available funds to implement the monitoring activities which may be required under subsection (a).

(j) ESTABLISHMENT OF METHODOLOGIES.—The Administrator shall establish the methodologies, data base, and any other information required for making determinations under subsection (b)—

(1) for the North River drainage area (as defined in the consent decree) by July 31, 1986, unless the requirements of subsection (h)(1) have been satisfied, and

(2) for the Red Hook drainage area (as defined by the consent decree) by July 31, 1987, unless the requirements of subsection (h)(2) have been satisfied.

(k) VIOLATIONS.—In carrying out this section, if the Administrator finds that a violation of subsection (a) has occurred, the Administrator shall also determine, within 30 days after such finding, whether a provision of subsection (b) applies. If the Administrator requires information from the city of New York in order to determine whether a provision of subsection (b) applies, the Administrator shall request such information. If the city of New York does not supply the information requested by the Administrator, the Administrator shall determine that subsection (b) does not apply. The city of New York shall be responsible only for such expenses as are necessary to provide such requested information. Enforcement action pursuant to subsection (c) shall be commenced at the end of such 30 days unless a provision of subsection (b) applies.

SEC. 512. OAKWOOD BEACH AND RED HOOK PROJECTS, NEW YORK.

(a) RELOCATION OF NATURAL GAS FACILITIES.—Notwithstanding any provision of the Federal Water Pollution Control Act, the Administrator shall pay, to the extent provided in appropriation Acts, in the same proportion as the Federal share of other project costs, all expenses for the relocation of facilities for the distribution of natural gas with respect to the entire wastewater treatment works known as the Oakwood Beach (EPA Grant Numbered 360392) and Red Hook (EPA Grant Numbered 360394) projects, New York.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal years beginning after September 30, 1986, not to exceed $7,000,000 to carry out this section.

SEC. 513. BOSTON HARBOR AND ADJACENT WATERS.

(a) GRANTS.—The Administrator shall make grants to the Massachusetts Water Resource Authority for purposes of—

(1) assessing the principal factors having an adverse effect on the environmental quality of Boston Harbor and its adjacent waters;

(2) developing and implementing a management program to improve the water quality of such Harbor and waters; and

(3) constructing necessary waste water treatment works for providing secondary treatment for the areas served by such authority.

(b) FEDERAL SHARE.—The Federal share of projects described in subsection (a) shall not exceed 75 percent of the cost of construction thereof.

(c) EMERGENCY IMPROVEMENTS.—The Administrator is authorized and directed to make grants to the Massachusetts Water Resource Authority for a project to undertake emergency improvements at the Deer Island Waste Water Treatment Plant in Boston, Massachusetts. The Federal share of such project shall not exceed 75 percent of the cost of carrying out such improvements.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $100,000,000 to carry out this section for fiscal years beginning after September 30, 1986, to remain available until expended. Such sums shall be in addition to and not in lieu of any other amounts authorized to be appropriated under title II of the Federal Water Pollution Control Act.

SEC. 514. WASTEWATER RECLAMATION DEMONSTRATION.

(a) AUTHORITY TO MAKE GRANTS.—The Administrator is authorized to make a grant to the San Diego Water Reclamation Agency, California, to demonstrate and field test for public use innovative processes which advance the technology of wastewater reclamation and which promote the use of reclaimed wastewater.

(b) FEDERAL SHARE.—The Federal share of grants made under this section shall be 85 percent of the costs of conducting such demonstration and field test.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated not to exceed $2,000,000 to carry out this section for fiscal years beginning after September 30, 1986.

SEC. 515. DES MOINES, IOWA.

(a) GRANT.—The Administrator is authorized to make a grant to the city of Des Moines, Iowa, for construction of the Central Sewage Treatment Plant component of the Des Moines, Iowa, metropolitan area project. The Federal share of such project shall be 75 percent of the cost of construction.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section not to exceed $50,000,000 for fiscal years beginning after September 30, 1986. Such sums shall be in addition to and not in lieu of any other amounts authorized to be appropriated under title II of the Federal Water Pollution Control Act.

SEC. 516. STUDY OF DE MINIMIS DISCHARGES.

(a) STUDY.—The Administrator shall conduct a study of discharges of pollutants into the navigable waters and their regulation under the Federal Water Pollution Control Act to determine whether or not there are discharges of pollutants into such waters in amounts which, in terms of volume, concentration, and type of pollutant, are not significant and to determine the most effective and appropriate methods of regulating any such discharges.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall submit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of such study along with recommendations and findings concerning the most effective and appropriate methods of regulating any discharges of pollutants into the navigable waters in amounts which the Administrator determines under such study to be not significant.

SEC. 517. STUDY OF EFFECTIVENESS OF INNOVATIVE AND ALTERNATIVE PROCESSES AND TECHNIQUES.

(a) EFFECTIVENESS STUDY.—The Administrator shall study the effectiveness on waste treatment of innovative and alternative wastewater treatment processes and techniques referred to in section 201(g)(5) of the Federal Water Pollution Control Act which have been utilized in treatment works constructed under such Act. In conducting such study, the Administrator shall compile information, by State, on the types of such processes and techniques utilized, on the number of facilities constructed with such processes and techniques, and a description of such processes and techniques which have not performed to design standards. The Administrator shall also determine which States have not obligated the full amount set aside under section 205(i) of such Act for such processes and techniques and the reasons for each such State's failure to make such obligations.

(b) Report.—Not later than one year after the date of the enactment of this Act, the Administrator shall submit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of such study, along with recommendations for providing more effective incentives for innovative and alternative wastewater treatment processes and techniques.

SEC. 518. STUDY OF TESTING PROCEDURES.

(a) Study.—The Administrator shall study the testing procedures for analysis of pollutants established under section 304(h) of the Federal Water Pollution Control Act. Such study shall include, but not be limited to, an analysis of the adequacy and standardization of such procedures. In conducting the analysis of the standardization of such procedures, the Administrator shall consider the extent to which such procedures are consistent with comparable procedures established under other Federal laws.

(b) Report.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall submit a report on the results of the study conducted under this subsection, together with recommendations for modifying the test procedures referred to in subsection (a) to improve their effectiveness, to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate.

SEC. 519. STUDY OF PRETREATMENT OF TOXIC POLLUTANTS.

(a) Study.—The Administrator shall study—

(1) the adequacy of data on environmental impacts of toxic industrial pollutants discharged from publicly owned treatment works;

(2) the extent to which secondary treatment at publicly owned treatment works removes toxic pollutants;

(3) the capability of publicly owned treatment works to revise pretreatment requirements under section 307(b)(1) of the Federal Water Pollution Control Act;

(4) possible alternative regulatory strategies for protecting the operations of publicly owned treatment works from industrial discharges, and shall evaluate the extent to which each such strategy identified may be expected to achieve the goals of this Act;

(5) for each such alternative regulatory strategy, the extent to which removal of toxic pollutants by publicly owned treatment works results in contamination of sewage sludge and the extent to which pretreatment requirements may prevent such contamination or improve the ability of publicly owned treatment works to comply with sewage sludge criteria developed

under section 405 of the Federal Water Pollution Control Act; and

(6) the adequacy of Federal, State, and local resources to establish, implement, and enforce multiple pretreatment limits for toxic pollutants for each such alternative strategy.

(b) Report.—Not later than 4 years after the date of the enactment of this Act, the Administrator shall submit a report on the results of such study along with recommendations for improving the effectiveness of pretreatment requirements to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate.

SEC. 520. STUDIES OF WATER POLLUTION PROBLEMS IN AQUIFERS.

(a) Studies.—The Administrator, in conjunction with State and local agencies and after providing an opportunity for full public participation, shall conduct studies for the purpose of identifying existing and potential point and nonpoint sources of pollution, and of identifying measures and practices necessary to control such sources of pollution, in the following groundwater systems and aquifers:

(1) the groundwater system of the Upper Santa Cruz Basin and the Avra-Altar Basin of Pima, Pinal, and Santa Cruz Counties, Arizona;

(2) the Spokane-Rathdrum Valley Aquifer, Washington and Idaho;

(3) the Nassau and Suffolk Counties Aquifer, New York;

(4) the Whidbey Island Aquifer, Washington;

(5) the Unconsolidated Quaternary Aquifer, Rockaway River area, New Jersey;

(6) contaminated ground water under Litchfield, Hartford, Fairfield, Tolland, and New Haven counties, Connecticut; and

(7) the Sparta Aquifer, Arkansas.

(b) Reports.—Not later than 2 years after the date of the enactment of this Act, the Administrator shall submit to Congress a report on the studies conducted under this section.

(c) Authorization of Appropriations.—There is authorized to be appropriated $7,000,000 for fiscal years beginning after September 30, 1986, to carry out this section.

SEC. 521. GREAT LAKES CONSUMPTIVE USE STUDY.

(a) Study of Consumptive Uses.—In recognition of the serious impacts on the Great Lakes environment that may occur as a result of increased consumption of Great Lakes water, including loss of wetlands and reduction of fish spawning and habitat areas, as well as serious economic losses to vital Great Lakes industries, and in recognition of the national goal to provide environmental protection and preservation of our natural resources while allowing for continued economic growth, the Secretary of the Army in cooperation with the Administrator, other interested departments, agencies, and instrumentalities of the United States, and the eight Great Lakes States, is authorized to conduct a study of the effects of Great Lakes water consumption on economic growth and environmental quality in the Great Lakes region and of control measures that can be implemented to reduce the quantity of water consumed.

(b) MATTERS INCLUDED.—The study authorized by this section shall at a minimum include the following:

(1) a review of the methodologies used to forecast Great Lakes consumptive uses, including an analysis of the sensitivity of key variables affecting such uses;

(2) an analysis of the effect that enforcement of provisions of the Federal Water Pollution Control Act relating to thermal discharges has had on consumption of Great Lakes water;

(3) an analysis of the effect of laws, regulations, and national policy objectives on consumptive uses of Great Lakes water used in manufacturing;

(4) an analysis of the associated environmental impacts and of the economic effects on industry and other interests in the Great Lakes region associated with individual consumptive use control strategies; and

(5) a summary discussion containing recommendations for methods of controlling consumptive uses which methods maximize benefits to the Great Lakes ecosystem and also provide for continued full economic growth for consuming industries as well as other industries which depend on the use of Great Lakes water.

(c) GREAT LAKES STATES DEFINED.—For purposes of this section, the term "Great Lakes States" means Minnesota, Wisconsin, Illinois, Ohio, Michigan, Indiana, Pennsylvania, and New York.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal years beginning after September 30, 1986, $750,000 to carry out this section. Sums appropriated under this section shall remain available until expended.

SEC. 522. SULFIDE CORROSION STUDY.

(a) STUDY.—The Administrator shall conduct a study of the corrosive effects of sulfides in collection and treatment systems, the extent to which the uniform imposition of categorical pretreatment standards will exacerbate such effects, and the range of available options to deal with such effects.

(b) CONSULTATION.—The study required by this section shall be conducted in consultation with the Los Angeles City and County sanitation agencies.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall submit a report on the results of the study, together with recommendations for measures to reduce the corrosion of treatment works, to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,000,000 to carry out this section for fiscal years beginning after September 30, 1986.

SEC. 523. STUDY OF RAINFALL INDUCED INFILTRATION INTO SEWER SYSTEMS.

(a) STUDY.—The Administrator shall study problems associated with rainfall induced infiltration into wastewater treatment sewer systems. As part of such study, the Administrator shall study appropriate methods of regulating rainfall induced infiltration into the sewer system of the East Bay Municipal Utility District, California.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Administrator shall submit to Congress a report on the results of such study, along with recommendations on reasonable methods to reduce such infiltration.

SEC. 524. DAM WATER QUALITY STUDY.

The Administrator, in cooperation with interested States and Federal agencies, shall study and monitor the effects on the quality of navigable waters attributable to the impoundment of water by dams. The results of such study shall be submitted to Congress not later than December 31, 1987.

SEC. 525. STUDY OF POLLUTION IN LAKE PEND OREILLE, IDAHO.

The Administrator shall conduct a comprehensive study of the sources of pollution in Lake Pend Oreille, Idaho, and the Clark Fork River and its tributaries, Idaho, Montana, and Washington, for the purpose of identifying the sources of such pollution. In conducting such study, the Administrator shall consider existing studies, surveys, and test results concerning such pollution. The Administrator shall report to Congress the findings and recommendations concerning the study conducted under this section.

○

CHAPTER II

PUBLIC LAW 100-4

TEXT OF WATER QUALITY ACT OF 1987 (*PUBLIC LAW 100-4*); SENATE AND HOUSE DEBATE TO OVERRIDE PRESIDENT'S VETO OF H.R. 1, FEBRUARY 1987; PRESIDENT'S 1987 VETO MESSAGE; SENATE DEBATE AND PASSAGE OF H.R. 1, JANUARY 1987; HOUSE DEBATE AND PASSAGE OF H.R. 1, JANUARY 1987.

Note: Following President Reagan's pocket veto of S. 1128 (see chapter III), the 100th Congress acted quickly on Clean Water Act reauthorization legislation. A measure identical to the vetoed bill from the 99th Congress (H.R. 1 and S. 1) was introduced in January 1987, and was passed without further committee consideration. The House debated and passed H.R. 1 without amendment January 8, 1987, by a vote of 406-8, and the Senate approved H.R. 1 without amendment January 21, 1987, by a 93-6 vote. Both houses also approved H. Con. Res. 24, making a correction to one provision of the bill as passed. President Reagan vetoed H.R. 1 on January 30, 1987. On February 3 the House voted to override the veto by a 401-26 vote. The Senate voted to override the veto on February 4, by a 86-14 vote, and the bill was enacted as Public Law 100-4.

Public Law 100-4
100th Congress

An Act

To amend the Federal Water Pollution Control Act to provide for the renewal of the quality of the Nation's waters, and for other purposes.

Feb. 4, 1987
[H.R. 1]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Water Quality Act of 1987.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; AMENDMENTS TO FEDERAL WATER POLLUTION CONTROL ACT; DEFINITION OF ADMINISTRATOR.

(a) SHORT TITLE.—This Act may be cited as the "Water Quality Act of 1987".

33 USC 1251 note.

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents; amendments to Federal Water Pollution Control Act; definition of Administrator.
Sec. 2. Limitation on payments.

TITLE I—AMENDMENTS TO TITLE I

Sec. 101. Authorizations of appropriations.
Sec. 102. Small flows clearinghouse.
Sec. 103. Chesapeake Bay.
Sec. 104. Great Lakes.
Sec. 105. Research on effects of pollutants.

TITLE II—CONSTRUCTION GRANTS AMENDMENTS

Sec. 201. Time limit on resolving certain disputes.
Sec. 202. Federal share.
Sec. 203. Agreement on eligible costs.
Sec. 204. Design/build projects.
Sec. 205. Grant conditions; user charges on low-income residential users.
Sec. 206. Allotment formula.
Sec. 207. Rural set aside.
Sec. 208. Innovative and alternative projects.
Sec. 209. Regional organization funding.
Sec. 210. Marine CSO's and estuaries.
Sec. 211. Authorization for construction grants.
Sec. 212. State water pollution control revolving funds.
Sec. 213. Improvement projects.
Sec. 214. Chicago tunnel and reservoir project.
Sec. 215. Ad valorem tax dedication.

TITLE III—STANDARDS AND ENFORCEMENTS

Sec. 301. Compliance dates.
Sec. 302. Modification for nonconventional pollutants.
Sec. 303. Discharges into marine waters.
Sec. 304. Filing deadline for treatment works modification.
Sec. 305. Innovative technology compliance deadlines for direct dischargers.
Sec. 306. Fundamentally different factors.
Sec. 307. Coal remining operations.
Sec. 308. Individual control strategies for toxic pollutants.
Sec. 309. Pretreatment standards.
Sec. 310. Inspection and entry.
Sec. 311. Marine sanitation devices.
Sec. 312. Criminal penalties.
Sec. 313. Civil penalties.
Sec. 314. Administrative penalties.
Sec. 315. Clean lakes.

Sec. 316. Management of nonpoint sources of pollution.
Sec. 317. National estuary program.
Sec. 318. Unconsolidated quaternary aquifer.

TITLE IV—PERMITS AND LICENSES

Sec. 401. Stormwater runoff from oil, gas, and mining operations.
Sec. 402. Additional pretreatment of conventional pollutants not required.
Sec. 403. Partial NPDES program.
Sec. 404. Anti-backsliding.
Sec. 405. Municipal and industrial stormwater discharges.
Sec. 406. Sewage sludge.
Sec. 407. Log transfer facilities.

TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. Audits.
Sec. 502. Commonwealth of the Northern Mariana Islands.
Sec. 503. Agricultural stormwater discharges.
Sec. 504. Protection of interests of United States in citizen suits.
Sec. 505. Judicial review and award of fees.
Sec. 506. Indian tribes.
Sec. 507. Definition of point source.
Sec. 508. Special provisions regarding certain dumping sites.
Sec. 509. Ocean discharge research project.
Sec. 510. San Diego, California.
Sec. 511. Limitation on discharge of raw sewage by New York City.
Sec. 512. Oakwood Beach and Red Hook Projects, New York.
Sec. 513. Boston Harbor and adjacent waters.
Sec. 514. Wastewater reclamation demonstration.
Sec. 515. Des Moines, Iowa.
Sec. 516. Study of de minimis discharges.
Sec. 517. Study of effectiveness of innovative and alternative processes and techniques.
Sec. 518. Study of testing procedures.
Sec. 519. Study of pretreatment of toxic pollutants.
Sec. 520. Studies of water pollution problems in aquifers.
Sec. 521. Great Lakes consumptive use study.
Sec. 522. Sulfide corrosion study.
Sec. 523. Study of rainfall induced infiltration into sewer systems.
Sec. 524. Dam water quality study.
Sec. 525. Study of pollution in Lake Pend Oreille, Idaho.

(c) AMENDMENT OF FEDERAL WATER POLLUTION CONTROL ACT.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Water Pollution Control Act. 33 USC 1251 note.

33 USC 1251 note. (d) DEFINITION.—For purposes of this Act, the term "Administrator" means the Administrator of the Environmental Protection Agency.

33 USC 1251 note.

SEC. 2. LIMITATION ON PAYMENTS.

No payments may be made under this Act except to the extent provided in advance in appropriation Acts.

TITLE I—AMENDMENTS TO TITLE I

SEC. 101. AUTHORIZATIONS OF APPROPRIATIONS.

33 USC 1254. (a) RESEARCH AND INVESTIGATIONS.—Section 104(u) is amended—

(1) in clause (1) by striking out "and" after "1975,", after "1980,", and after "1981,", and by inserting after "1982," the following: "such sums as may be necessary for fiscal years 1983

through 1985, and not to exceed $22,770,000 per fiscal year for each of the fiscal years 1986 through 1990,";

(2) in clause (2) by striking out "and" after "1981," and by inserting after "1982," the following: "such sums as may be necessary for fiscal years 1983 through 1985, and $3,000,000 per fiscal year for each of the fiscal years 1986 through 1990,"; and

(3) in clause (3) by striking out "and" after "1981," and by inserting after "1982," the following: "such sums as may be necessary for fiscal years 1983 through 1985, and $1,500,000 per fiscal year for each of the fiscal years 1986 through 1990,".

(b) Grants for Program Administration.—Section 106(a)(2) is amended by inserting after "1982" the following: ", such sums as may be necessary for fiscal years 1983 through 1985, and $75,000,000 per fiscal year for each of the fiscal years 1986 through 1990". 33 USC 1256.

(c) Training Grants and Scholarships.—Section 112(c) is amended by striking out "and" after "1981," and by inserting after "1982," the following: "such sums as may be necessary for fiscal years 1983 through 1985, and $7,000,000 per fiscal year for each of the fiscal years 1986 through 1990,". 33 USC 1262.

(d) Areawide Planning.—Section 208(f)(3) is amended by striking out "and" after "1974," and after "1980," and by inserting after "1982" the following: ", and such sums as may be necessary for fiscal years 1983 through 1990". 33 USC 1288.

(e) Rural Clean Water.—Section 208(j)(9) is amended by striking out "and" after "1981," and by inserting after "1982," the following: "and such sums as may be necessary for fiscal years 1983 through 1990,".

(f) Interagency Agreements.—Section 304(k)(3) is amended by inserting after "1983" the following: "and such sums as may be necessary for fiscal years 1984 through 1990". 33 USC 1314.

(g) Clean Lakes.—Section 314(c)(2) is amended by striking out "and" after "1981," and by inserting after "1982" the following: ", such sums as may be necessary for fiscal years 1983 through 1985, and $30,000,000 per fiscal year for each of the fiscal years 1986 through 1990". 33 USC 1324.

(h) General Authorization.—Section 517 is amended by striking out "and" after "1981," and by inserting after "1982" the following: ", such sums as may be necessary for fiscal years 1983 through 1985, and $135,000,000 per fiscal year for each of the fiscal years 1986 through 1990". 33 USC 1376.

SEC. 102. SMALL FLOWS CLEARINGHOUSE.

Section 104(q) is amended by adding at the end thereof the following new paragraph: 33 USC 1254.

"(4) Small flows clearinghouse.—Notwithstanding section 205(d) of this Act, from amounts that are set aside for a fiscal year under section 205(i) of this Act and are not obligated by the end of the 24-month period of availability for such amounts under section 205(d), the Administrator shall make available $1,000,000 or such unobligated amount, whichever is less, to support a national clearinghouse within the Environmental Protection Agency to collect and disseminate information on small flows of sewage and innovative or alternative wastewater treatment processes and techniques, consistent with paragraph (3). This paragraph shall apply with respect to amounts set aside under section 205(i) for which the 24-month period of 33 USC 1285.

availability referred to in the preceding sentence ends on or after September 30, 1986.".

33 USC 1267.

SEC. 103. CHESAPEAKE BAY.

Title I is amended by adding at the end the following new section:

"SEC. 117. CHESAPEAKE BAY.

"(a) OFFICE.—The Administrator shall continue the Chesapeake Bay Program and shall establish and maintain in the Environmental Protection Agency an office, division, or branch of Chesapeake Bay Programs to—

"(1) collect and make available, through publications and other appropriate means, information pertaining to the environmental quality of the Chesapeake Bay (hereinafter in this subsection referred to as the 'Bay');

"(2) coordinate Federal and State efforts to improve the water quality of the Bay;

"(3) determine the impact of sediment deposition in the Bay and identify the sources, rates, routes, and distribution patterns of such sediment deposition; and

"(4) determine the impact of natural and man-induced environmental changes on the living resources of the Bay and the relationships among such changes, with particular emphasis placed on the impact of pollutant loadings of nutrients, chlorine, acid precipitation, dissolved oxygen, and toxic pollutants, including organic chemicals and heavy metals, and with special attention given to the impact of such changes on striped bass.

"(b) INTERSTATE DEVELOPMENT PLAN GRANTS.—

"(1) AUTHORITY.—The Administrator shall, at the request of the Governor of a State affected by the interstate management plan developed pursuant to the Chesapeake Bay Program (hereinafter in this section referred to as the 'plan'), make a grant for the purpose of implementing the management mechanisms contained in the plan if such State has, within 1 year after the date of the enactment of this section, approved and committed to implement all or substantially all aspects of the plan. Such grants shall be made subject to such terms and conditions as the Administrator considers appropriate.

"(2) SUBMISSION OF PROPOSAL.—A State or combination of States may elect to avail itself of the benefits of this subsection by submitting to the Administrator a comprehensive proposal to implement management mechanisms contained in the plan which shall include (A) a description of proposed abatement actions which the State or combination of States commits to take within a specified time period to reduce pollution in the Bay and to meet applicable water quality standards, and (B) the estimated cost of the abatement actions proposed to be taken during the next fiscal year. If the Administrator finds that such proposal is consistent with the national policies set forth in section 101(a) of this Act and will contribute to the achievement of the national goals set forth in such section, the Administrator shall approve such proposal and shall finance the costs of implementing segments of such proposal.

"(3) FEDERAL SHARE.—Grants under this subsection shall not exceed 50 percent of the costs of implementing the management mechanisms contained in the plan in any fiscal year and shall be made on condition that non-Federal sources provide the remainder of the cost of implementing the management mechanisms contained in the plan during such fiscal year.

"(4) ADMINISTRATIVE COSTS.—Administrative costs in the form of salaries, overhead, or indirect costs for services provided and charged against programs or projects supported by funds made available under this subsection shall not exceed in any one fiscal year 10 percent of the annual Federal grant made to a State under this subsection.

State and local governments.

"(c) REPORTS.—Any State or combination of States that receives a grant under subsection (b) shall, within 18 months after the date of receipt of such grant and biennially thereafter, report to the Administrator on the progress made in implementing the interstate management plan developed pursuant to the Chesapeake Bay Program. The Administrator shall transmit each such report along with the comments of the Administrator on such report to Congress.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated the following sums, to remain available until expended, to carry out the purposes of this section:

"(1) $3,000,000 per fiscal year for each of the fiscal years 1987, 1988, 1989, and 1990, to carry out subsection (a); and

"(2) $10,000,000 per fiscal year for each of the fiscal years 1987, 1988, 1989, and 1990, for grants to States under subsection (b).".

SEC. 104. GREAT LAKES.

Title I is amended by adding at the end the following new section:

33 USC 1268.

"SEC. 118. GREAT LAKES.

"(a) FINDINGS, PURPOSE, AND DEFINITIONS.—

"(1) FINDINGS.—The Congress finds that—

"(A) the Great Lakes are a valuable national resource, continuously serving the people of the United States and other nations as an important source of food, fresh water, recreation, beauty, and enjoyment;

"(B) the United States should seek to attain the goals embodied in the Great Lakes Water Quality Agreement of 1978 with particular emphasis on goals related to toxic pollutants; and

"(C) the Environmental Protection Agency should take the lead in the effort to meet those goals, working with other Federal agencies and State and local authorities.

"(2) PURPOSE.—It is the purpose of this section to achieve the goals embodied in the Great Lakes Water Quality Agreement of 1978 through improved organization and definition of mission on the part of the Agency, funding of State grants for pollution control in the Great Lakes area, and improved accountability for implementation of such agreement.

"(3) DEFINITIONS.—For purposes of this section, the term—

"(A) 'Agency' means the Environmental Protection Agency;

"(B) 'Great Lakes' means Lake Ontario, Lake Erie, Lake Huron (including Lake St. Clair), Lake Michigan, and Lake Superior, and the connecting channels (Saint Mary's River, Saint Clair River, Detroit River, Niagara River, and Saint Lawrence River to the Canadian Border);

"(C) 'Great Lakes System' means all the streams, rivers, lakes, and other bodies of water within the drainage basin of the Great Lakes;

"(D) 'Program Office' means the Great Lakes National Program Office established by this section; and

"(E) 'Research Office' means the Great Lakes Research Office established by subsection (d).

"(b) GREAT LAKES NATIONAL PROGRAM OFFICE.—The Great Lakes National Program Office (previously established by the Administrator) is hereby established within the Agency. The Program Office shall be headed by a Director who, by reason of management experience and technical expertise relating to the Great Lakes, is highly qualified to direct the development of programs and plans on a variety of Great Lakes issues. The Great Lakes National Program Office shall be located in a Great Lakes State.

"(c) GREAT LAKES MANAGEMENT.—

"(1) FUNCTIONS.—The Program Office shall—

"(A) in cooperation with appropriate Federal, State, tribal, and international agencies, and in accordance with section 101(e) of this Act, develop and implement specific action plans to carry out the responsibilities of the United States under the Great Lakes Water Quality Agreement of 1978;

33 USC 1251.

"(B) establish a Great Lakes system-wide surveillance network to monitor the water quality of the Great Lakes, with specific emphasis on the monitoring of toxic pollutants;

"(C) serve as the liaison with, and provide information to, the Canadian members of the International Joint Commission and the Canadian counterpart to the Agency;

"(D) coordinate actions of the Agency (including actions by headquarters and regional offices thereof) aimed at improving Great Lakes water quality; and

"(E) coordinate actions of the Agency with the actions of other Federal agencies and State and local authorities, so as to ensure the input of those agencies and authorities in developing water quality strategies and obtain the support of those agencies and authorities in achieving the objectives of such agreement.

"(2) 5-YEAR PLAN AND PROGRAM.—The Program Office shall develop, in consultation with the States, a five-year plan and program for reducing the amount of nutrients introduced into the Great Lakes. Such program shall incorporate any management program for reducing nutrient runoff from nonpoint sources established under section 319 of this Act and shall include a program for monitoring nutrient runoff into, and ambient levels in, the Great Lakes.

Pollution.
Michigan.
Wisconsin.
Indiana.
Ohio.
New York.

"(3) 5-YEAR STUDY AND DEMONSTRATION PROJECTS.—The Program Office shall carry out a five-year study and demonstration projects relating to the control and removal of toxic pollutants in the Great Lakes, with emphasis on the removal of toxic pollutants from bottom sediments. In selecting locations for conducting demonstration projects under this paragraph, priority consideration shall be given to projects at the following locations: Saginaw Bay, Michigan; Sheboygan Harbor, Wisconsin; Grand Calumet River, Indiana; Ashtabula River, Ohio; and Buffalo River, New York.

"(4) ADMINISTRATOR'S RESPONSIBILITY.—The Administrator shall ensure that the Program Office enters into agreements with the various organizational elements of the Agency involved in Great Lakes activities and the appropriate State agencies specifically delineating—

"(A) the duties and responsibilities of each such element in the Agency with respect to the Great Lakes;

"(B) the time periods for carrying out such duties and responsibilities; and

"(C) the resources to be committed to such duties and responsibilities.

"(5) BUDGET ITEM.—The Administrator shall, in the Agency's annual budget submission to Congress, include a funding request for the Program Office as a separate budget line item.

"(6) COMPREHENSIVE REPORT.—Within 90 days after the end of each fiscal year, the Administrator shall submit to Congress a comprehensive report which—

Research and development. State and local governments.

"(A) describes the achievements in the preceding fiscal year in implementing the Great Lakes Water Quality Agreement of 1978 and shows by categories (including judicial enforcement, research, State cooperative efforts, and general administration) the amounts expended on Great Lakes water quality initiatives in such preceding fiscal year;

"(B) describes the progress made in such preceding fiscal year in implementing the system of surveillance of the water quality in the Great Lakes System, including the monitoring of groundwater and sediment, with particular reference to toxic pollutants;

"(C) describes the long-term prospects for improving the condition of the Great Lakes; and

"(D) provides a comprehensive assessment of the planned efforts to be pursued in the succeeding fiscal year for implementing the Great Lakes Water Quality Agreement of 1978, which assessment shall—

Research and development. State and local govenments.

"(i) show by categories (including judicial enforcement, research, State cooperative efforts, and general administration) the amount anticipated to be expended on Great Lakes water quality initiatives in the fiscal year to which the assessment relates; and

"(ii) include a report of current programs administered by other Federal agencies which make available resources to the Great Lakes water quality management efforts.

"(d) GREAT LAKES RESEARCH.—

"(1) ESTABLISHMENT OF RESEARCH OFFICE.—There is established within the National Oceanic and Atmospheric Administration the Great Lakes Research Office.

Reports.

"(2) IDENTIFICATION OF ISSUES.—The Research Office shall identify issues relating to the Great Lakes resources on which research is needed. The Research Office shall submit a report to Congress on such issues before the end of each fiscal year which shall identify any changes in the Great Lakes system with respect to such issues.

State and local governments. Schools and colleges.

"(3) INVENTORY.—The Research Office shall identify and inventory Federal, State, university, and tribal environmental research programs (and, to the extent feasible, those of private organizations and other nations) relating to the Great Lakes system, and shall update that inventory every four years.

"(4) Research exchange.—The Research Office shall establish a Great Lakes research exchange for the purpose of facilitating the rapid identification, acquisition, retrieval, dissemination, and use of information concerning research projects which are ongoing or completed and which affect the Great Lakes System.

Fish and fishing.

"(5) Research program.—The Research Office shall develop, in cooperation with the Coordination Office, a comprehensive environmental research program and data base for the Great Lakes system. The data base shall include, but not be limited to, data relating to water quality, fisheries, and biota.

"(6) Monitoring.—The Research Office shall conduct, through the Great Lakes Environmental Research Laboratory, the National Sea Grant College program, other Federal laboratories, and the private sector, appropriate research and monitoring activities which address priority issues and current needs relating to the Great Lakes.

"(7) Location.—The Research Office shall be located in a Great Lakes State.

"(e) Research and Management Coordination.—

"(1) Joint plan.—Before October 1 of each year, the Program Office and the Research Office shall prepare a joint research plan for the fiscal year which begins in the following calendar year.

"(2) Contents of plan.—Each plan prepared under paragraph (1) shall—

"(A) identify all proposed research dedicated to activities conducted under the Great Lakes Water Quality Agreement of 1978;

"(B) include the Agency's assessment of priorities for research needed to fulfill the terms of such Agreement; and

"(C) identify all proposed research that may be used to develop a comprehensive environmental data base for the Great Lakes System and establish priorities for development of such data base.

Reports.

"(f) Interagency Cooperation.—The head of each department, agency, or other instrumentality of the Federal Government which is engaged in, is concerned with, or has authority over programs relating to research, monitoring, and planning to maintain, enhance, preserve, or rehabilitate the environmental quality and natural resources of the Great Lakes, including the Chief of Engineers of the Army, the Chief of the Soil Conservation Service, the Commandant of the Coast Guard, the Director of the Fish and Wildlife Service, and the Administrator of the National Oceanic and Atmospheric Administration, shall submit an annual report to the Administrator with respect to the activities of that agency or office affecting compliance with the Great Lakes Water Quality Agreement of 1978.

"(g) Relationship to Existing Federal and State Laws and International Treaties.—Nothing in this section shall be construed to affect the jurisdiction, powers, or prerogatives of any department, agency, or officer of the Federal Government or of any State government, or of any tribe, nor any powers, jurisdiction, or prerogatives of any international body created by treaty with authority relating to the Great Lakes.

"(h) AUTHORIZATIONS OF GREAT LAKES APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out this section not to exceed $11,000,000 per fiscal year for the fiscal years 1987, 1988, 1989, 1990, and 1991. Of the amounts appropriated each fiscal year—

"(1) 40 percent shall be used by the Great Lakes National Program Office on demonstration projects on the feasibility of controlling and removing toxic pollutants;

"(2) 7 percent shall be used by the Great Lakes National Program Office for the program of nutrient monitoring; and

"(3) 30 percent shall be transferred to the National Oceanic and Atmospheric Administration for use by the Great Lakes Research Office.".

SEC. 105. RESEARCH ON EFFECTS OF POLLUTANTS. 33 USC 1254a.

In carrying out the provisions of section 104(a) of the Federal Water Pollution Control Act, the Administrator shall conduct research on the harmful effects on the health and welfare of persons caused by pollutants in water, in conjunction with the United States Fish and Wildlife Service, the National Oceanic and Atmospheric Administration, and other Federal, State, and interstate agencies carrying on such research. Such research shall include, and shall place special emphasis on, the effect that bioaccumulation of these pollutants in aquatic species has upon reducing the value of aquatic commercial and sport industries. Such research shall further study methods to reduce and remove these pollutants from the relevant affected aquatic species so as to restore and enhance these valuable resources.

33 USC 1254.

TITLE II—CONSTRUCTION GRANTS AMENDMENTS

SEC. 201. TIME LIMIT ON RESOLVING CERTAIN DISPUTES.

Section 201 is amended by adding at the end thereof the following new subsection: 33 USC 1281.

"(p) TIME LIMIT ON RESOLVING CERTAIN DISPUTES.—In any case in which a dispute arises with respect to the awarding of a contract for construction of treatment works by a grantee of funds under this title and a party to such dispute files an appeal with the Administrator under this title for resolution of such dispute, the Administrator shall make a final decision on such appeal within 90 days of the filing of such appeal.". Contracts.

SEC. 202. FEDERAL SHARE.

(a) LIMITATION ON ELIGIBILITY AFTER 1990.—The last sentence of section 202(a)(1) is amended by inserting before the period at the end the following: "for any grant made pursuant to a State obligation which obligation occurred before October 1, 1990". 33 USC 1282.

(b) PROJECTS UNDER JUDICIAL INJUNCTION.—Section 202(a)(1) is amended by adding at the end thereof the following: "Notwithstanding the first sentence of this paragraph, in the case of a project for which an application for a grant under this title has been made to the Administrator before October 1, 1984, and which project is under judicial injunction on such date prohibiting its construction, such project shall be eligible for grants at 75 percent of the cost of construction thereof.".

Pennsylvania. 33 USC 1282.

(c) PROJECTS UNDER JUDICIAL ORDER AND OTHER PROJECTS.—Section 202(a)(1) is amended by adding at the end thereof the following: "Notwithstanding the first sentence of this paragraph, in the case of the Wyoming Valley Sanitary Authority project mandated by judicial order under a proceeding begun prior to October 1, 1984, and a project for wastewater treatment for Altoona, Pennsylvania, such projects shall be eligible for grants at 75 percent of the cost of construction thereof.".

(d) BIODISC EQUIPMENT.—Section 202(a)(3) is amended by adding at the end thereof the following: "In addition, the Administrator is authorized to make a grant to fund all of the costs of the modification or replacement of biodisc equipment (rotating biological contactors) in any publicly owned treatment works if the Administrator finds that such equipment has failed to meet design performance specifications, unless such failure is attributable to negligence on the part of any person, and if such failure has significantly increased capital or operating and maintenance expenditures.".

Minnesota.

(e) INNOVATIVE PROCESS.—The activated bio-filter feature of the project for treatment works of the city of Little Falls, Minnesota, shall be deemed to be an innovative wastewater process and technique for purposes of section 202(a)(2) of the Federal Water Pollution Control Act and the amount of any grant under such Act for such feature shall be 85 percent of the cost thereof.

33 USC 1281b. State and local governments.

(f) AVAILABILITY OF CERTAIN FUNDS FOR NON-FEDERAL SHARE.—Notwithstanding any other provision of law, Federal assistance made available by the Farmers Home Administration to any political subdivision of a State may be used to provide the non-Federal share of the cost of any construction project carried out under section 201 of the Federal Water Pollution Control Act.

33 USC 1281.

Contracts.

SEC. 203. AGREEMENT ON ELIGIBLE COSTS.

33 USC 1283.

Section 203(a) is amended by inserting "(1)" after "(a)", by designating the last sentence as paragraph (3) and indenting such sentence as a paragraph, and by inserting before paragraph (3) as so designated the following:

"(2) AGREEMENT ON ELIGIBLE COSTS.—

"(A) LIMITATION ON MODIFICATIONS.—Before taking final action on any plans, specifications, and estimates submitted under this subsection after the 60th day following the date of the enactment of the Water Quality Act of 1987, the Administrator shall enter into a written agreement with the applicant which establishes and specifies which items of the proposed project are eligible for Federal payments under this section. The Administrator may not later modify such eligibility determinations unless they are found to have been made in violation of applicable Federal statutes and regulations.

"(B) LIMITATION ON EFFECT.—Eligibility determinations under this paragraph shall not preclude the Administrator from auditing a project pursuant to section 501 of this Act, or other authority, or from withholding or recovering Federal funds for costs which are found to be unreasonable, unsupported by adequate documentation, or otherwise unallowable under applicable Federal cost principles, or which are incurred on a project which fails to meet the design

33 USC 1361.

specifications or effluent limitations contained in the grant agreement and permit pursuant to section 402 of this Act for such project.".

33 USC 1342.

SEC. 204. DESIGN/BUILD PROJECTS.

Section 203 is amended by adding at the end the following new subsection:

33 USC 1283.

"(f) Design/Build Projects.—

State and local governments.
Contracts.

"(1) Agreement.—Consistent with State law, an applicant who proposes to construct waste water treatment works may enter into an agreement with the Administrator under this subsection providing for the preparation of construction plans and specifications and the erection of such treatment works, in lieu of proceeding under the other provisions of this section.

"(2) Limitation on projects.—Agreements under this subsection shall be limited to projects under an approved facility plan which projects are—

"(A) treatment works that have an estimated total cost of $8,000,000 or less; and

"(B) any of the following types of waste water treatment systems: aerated lagoons, trickling filters, stabilization ponds, land application systems, sand filters, and subsurface disposal systems.

"(3) Required terms.—An agreement entered into under this subsection shall—

"(A) set forth an amount agreed to as the maximum Federal contribution to the project, based upon a competitively bid document of basic design data and applicable standard construction specifications and a determination of the federally eligible costs of the project at the applicable Federal share under section 202 of this Act;

33 USC 1282.

"(B) set forth dates for the start and completion of construction of the treatment works by the applicant and a schedule of payments of the Federal contribution to the project;

"(C) contain assurances by the applicant that (i) engineering and management assistance will be provided to manage the project; (ii) the proposed treatment works will be an operable unit and will meet all the requirements of this title; and (iii) not later than 1 year after the date specified as the date of completion of construction of the treatment works, the treatment works will be operating so as to meet the requirements of any applicable permit for such treatment works under section 402 of this Act;

33 USC 1342.

"(D) require the applicant to obtain a bond from the contractor in an amount determined necessary by the Administrator to protect the Federal interest in the project; and

"(E) contain such other terms and conditions as are necessary to assure compliance with this title (except as provided in paragraph (4) of this subsection).

"(4) Limitation on application.—Subsections (a), (b), and (c) of this section shall not apply to grants made pursuant to this subsection.

Grants.

"(5) Reservation to assure compliance.—The Administrator shall reserve a portion of the grant to assure contract compliance until final project approval as defined by the Administrator. If the amount agreed to under paragraph (3)(A) exceeds the cost of designing and constructing the treatment works, the Administrator shall reallot the amount of the excess to the State in which such treatment works are located for the fiscal year in which such audit is completed.

33 USC 1285.

"(6) Limitation on obligations.—The Administrator shall not obligate more than 20 percent of the amount allotted to a State for a fiscal year under section 205 of this Act for grants pursuant to this subsection.

33 USC 1281.

"(7) Allowance.—The Administrator shall determine an allowance for facilities planning for projects constructed under this subsection in accordance with section 201(l).

"(8) Limitation on federal contributions.—In no event shall the Federal contribution for the cost of preparing construction plans and specifications and the building and erection of treatment works pursuant to this subsection exceed the amount agreed upon under paragraph (3).

Grants.

"(9) Recovery action.—In any case in which the recipient of a grant made pursuant to this subsection does not comply with the terms of the agreement entered into under paragraph (3), the Administrator is authorized to take such action as may be necessary to recover the amount of the Federal contribution to the project.

Grants.

"(10) Prevention of double benefits.—A recipient of a grant made pursuant to this subsection shall not be eligible for any other grants under this title for the same project.".

SEC. 205. GRANT CONDITIONS; USER CHARGES ON LOW-INCOME RESIDENTIAL USERS.

33 USC 1284.

(a) Inclusion of Project in Areawide Plan.—Section 204(a)(1) is amended to read as follows:

33 USC 1288.

"(1) that any required areawide waste treatment management plan under section 208 of this Act (A) is being implemented for such area and the proposed treatment works are included in such plan, or (B) is being developed for such area and reasonable progress is being made toward its implementation and the proposed treatment works will be included in such plan;".

(b) Continuing Planning Process.—Section 204(a)(2) is amended to read as follows:

State and local governments.
33 USC 1313.

"(2) that (A) the State in which the project is to be located (i) is implementing any required plan under section 303(e) of this Act and the proposed treatment works are in conformity with such plan, or (ii) is developing such a plan and the proposed treatment works will be in conformity with such plan, and (B) such State is in compliance with section 305(b) of this Act;".

33 USC 1315.

(c) User Charges on Low-Income Residential Users.—Section 204(b)(1) is amended by adding at the end thereof the following: "A system of user charges which imposes a lower charge for low-income residential users (as defined by the Administrator) shall be deemed to be a user charge system meeting the requirements of clause (A) of this paragraph if the Administrator determines that such system was adopted after public notice and hearing.".

33 USC 1284 note.

(d) Effective Date.—This section shall take effect on the date of the enactment of this Act, except that the amendments made by subsections (a) and (b) shall take effect on the last day of the two-year period beginning on such date of enactment.

SEC. 206. ALLOTMENT FORMULA.

(a) FORMULA.—

(1) EXTENSION OF EXISTING FORMULA FOR 1986.—Section 205(c)(2) is amended by striking out "and September 30, 1985," and inserting in lieu thereof "September 30, 1985, and September 30, 1986,". 33 USC 1285.

(2) FISCAL YEARS 1987-1990.—Section 205(c) is amended by adding at the end the following new paragraph:

"(3) FISCAL YEARS 1987-1990.—Sums authorized to be appropriated pursuant to section 207 for the fiscal years 1987, 1988, 1989, and 1990 shall be allotted for each such year by the Administrator not later than the 10th day which begins after the date of the enactment of this paragraph. Sums authorized for such fiscal years shall be allotted in accordance with the following table: 33 USC 1287.

"States:	
Alabama	.011309
Alaska	.006053
Arizona	.006831
Arkansas	.006616
California	.072333
Colorado	.008090
Connecticut	.012390
Delaware	.004965
District of Columbia	.004965
Florida	.034139
Georgia	.017100
Hawaii	.007833
Idaho	.004965
Illinois	.045741
Indiana	.024374
Iowa	.013688
Kansas	.009129
Kentucky	.012872
Louisiana	.011118
Maine	.007829
Maryland	.024461
Massachusetts	.034338
Michigan	.043487
Minnesota	.018589
Mississippi	.009112
Missouri	.028037
Montana	.004965
Nebraska	.005173
Nevada	.004965
New Hampshire	.010107
New Jersey	.041329
New Mexico	.004965
New York	.111632
North Carolina	.018253
North Dakota	.004965
Ohio	.056936
Oklahoma	.008171
Oregon	.011425
Pennsylvania	.040062
Rhode Island	.006791
South Carolina	.010361
South Dakota	.004965
Tennessee	.014692
Texas	.046226
Utah	.005329
Vermont	.004965
Virginia	.020698
Washington	.017588
West Virginia	.015766

Wisconsin	.027342
Wyoming	.004965
American Samoa	.000908
Guam	.000657
Northern Marianas	.000422
Puerto Rico	.013191
Pacific Trust Territories	.001295
Virgin Islands	.000527".

33 USC 1285.

(b) Extension of Minimum Allotments.—Section 205(e) is amended by striking out "and 1985" each place it appears and inserting in lieu thereof "1985, 1986, 1987, 1988, 1989, and 1990".

(c) Costs of Administration.—Section 205(g)(1) is amended by striking out "October 1, 1985" and inserting in lieu thereof "October 1, 1994".

33 USC 1291.

(d) Control of Pollutants From Storm Sewers.—Section 211(c) is amended by striking out "1985," and inserting in lieu thereof "1990,".

SEC. 207. RURAL SET ASIDE.

(a) Increase in Mandatory Set Aside for Rural States.—The first sentence of section 205(h) is amended by striking out "four per centum" and inserting in lieu thereof "a total (as determined by the Governor of the State) of not less than 4 percent nor more than 7½ percent".

(b) Increase in Authorized Set Aside for Other States.—The second sentence of section 205(h) is amended by striking out "four per centum" and inserting in lieu thereof "7½ percent".

SEC. 208. INNOVATIVE AND ALTERNATIVE PROJECTS.

Section 205(i) is amended to read as follows:

State and local governments.

33 USC 1282.

"(i) Set-Aside for Innovative and Alternative Projects.—Not less than ½ of 1 percent of funds allotted to a State for each of the fiscal years ending September 30, 1979, through September 30, 1990, under subsection (c) of this section shall be expended only for increasing the Federal share of grants for construction of treatment works utilizing innovative processes and techniques pursuant to section 202(a)(2) of this Act. Including the expenditures authorized by the preceding sentence, a total of 2 percent of the funds allotted to a State for each of the fiscal years ending September 30, 1979, and September 30, 1980, and 3 percent of the funds allotted to a State for the fiscal year ending September 30, 1981, under subsection (c) of this section shall be expended only for increasing grants for construction of treatment works pursuant to section 202(a)(2) of this Act. Including the expenditures authorized by the first sentence of this subsection, a total (as determined by the Governor of the State) of not less than 4 percent nor more than 7½ percent of the funds allotted to such State under subsection (c) of this section for each of the fiscal years ending September 30, 1982, through September 30, 1990, shall be expended only for increasing the Federal share of grants for construction of treatment works pursuant to section 202(a)(2) of this Act.".

SEC. 209. REGIONAL ORGANIZATION FUNDING.

State and local governments.

Section 205(j)(3) is amended by adding at the end thereof the following: "In giving such priority, the State shall allocate at least 40 percent of the amount granted to such State for a fiscal year under paragraph (2) of this subsection to regional public comprehensive planning organizations in such State and appropriate interstate organizations for the development and implementation of the plan described in this paragraph. In any fiscal year for which the Governor, in consultation with such organizations and with the approval of the Administrator, determines that allocation of at least 40 percent of such amount to such organizations will not result in significant participation by such organizations in water quality management planning and not significantly assist in development and implementation of the plan described in this paragraph and achieving the goals of this Act, the allocation to such organization may be less than 40 percent of such amount.".

SEC. 210. MARINE CSO'S AND ESTUARIES.

Section 205 is amended by adding at the end thereof the following new subsection: 33 USC 1285.

"(l) **Marine Estuary Reservation.**—

"(1) **Reservation of funds.**—

"(A) **General rule.**—Prior to making allotments among the States under subsection (c) of this section, the Administrator shall reserve funds from sums appropriated pursuant to section 207 for each fiscal year beginning after September 30, 1986. 33 USC 1287.

"(B) **Fiscal years 1987 and 1988.**—For each of fiscal years 1987 and 1988 the reservation shall be 1 percent of the sums appropriated pursuant to section 207 for such fiscal year.

"(C) **Fiscal years 1989 and 1990.**—For each of fiscal years 1989 and 1990 the reservation shall be 1½ percent of the funds appropriated pursuant to section 207 for such fiscal year.

"(2) **Use of funds.**—Of the sums reserved under this subsection, two-thirds shall be available to address water quality problems of marine bays and estuaries subject to lower levels of water quality due to the impacts of discharges from combined storm water and sanitary sewer overflows from adjacent urban complexes, and one-third shall be available for the implementation of section 320 of this Act, relating to the national estuary program. Urban areas.

"(3) **Period of availability.**—Sums reserved under this subsection shall be subject to the period of availability for obligation established by subsection (d) of this section.

"(4) **Treatment of certain body of water.**—For purposes of this section and section 201(n), Newark Bay, New Jersey, and the portion of the Passaic River up to Little Falls, in the vicinity of Beatties Dam, shall be treated as a marine bay and estuary.". New Jersey. 33 USC 1281.

SEC. 211. AUTHORIZATIONS FOR CONSTRUCTION GRANTS.

Section 207 is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "; and for each of the fiscal years ending September 30, 1986, September 30, 1987, and September 30, 1988, not to exceed $2,400,000,000; and for each of the fiscal years ending September 30, 1989, and September 30, 1990, not to exceed $1,200,000,000.". 33 USC 1287.

SEC. 212. STATE WATER POLLUTION CONTROL REVOLVING FUNDS.

(a) **Establishment of Program.**—The Act is amended by adding at the end thereof the following new title:

"TITLE VI—STATE WATER POLLUTION CONTROL REVOLVING FUNDS

33 USC 1381.

"SEC. 601. GRANTS TO STATES FOR ESTABLISHMENT OF REVOLVING FUNDS.

"(a) General Authority.—Subject to the provisions of this title, the Administrator shall make capitalization grants to each State for the purpose of establishing a water pollution control revolving fund for providing assistance (1) for construction of treatment works (as defined in section 212 of this Act) which are publicly owned, (2) for implementing a management program under section 319, and (3) for developing and implementing a conservation and management plan under section 320.

33 USC 1292.
Post, p. 52.
Post, p. 61.

"(b) Schedule of Grant Payments.—The Administrator and each State shall jointly establish a schedule of payments under which the Administrator will pay to the State the amount of each grant to be made to the State under this title. Such schedule shall be based on the State's intended use plan under section 606(c) of this Act, except that—

Post, p. 25.

"(1) such payments shall be made in quarterly installments, and

"(2) such payments shall be made as expeditiously as possible, but in no event later than the earlier of—

"(A) 8 quarters after the date such funds were obligated by the State, or

"(B) 12 quarters after the date such funds were allotted to the State.

33 USC 1382.

"SEC. 602. CAPITALIZATION GRANT AGREEMENTS.

"(a) General Rule.—To receive a capitalization grant with funds made available under this title and section 205(m) of this Act, a State shall enter into an agreement with the Administrator which shall include but not be limited to the specifications set forth in subsection (b) of this section.

Post, p. 27.

"(b) Specific Requirements.—The Administrator shall enter into an agreement under this section with a State only after the State has established to the satisfaction of the Administrator that—

"(1) the State will accept grant payments with funds to be made available under this title and section 205(m) of this Act in accordance with a payment schedule established jointly by the Administrator under section 601(b) of this Act and will deposit all such payments in the water pollution control revolving fund established by the State in accordance with this title;

"(2) the State will deposit in the fund from State moneys an amount equal to at least 20 percent of the total amount of all capitalization grants which will be made to the State with funds to be made available under this title and section 205(m) of this Act on or before the date on which each quarterly grant payment will be made to the State under this title;

"(3) the State will enter into binding commitments to provide assistance in accordance with the requirements of this title in an amount equal to 120 percent of the amount of each such grant payment within 1 year after the receipt of such grant payment;

"(4) all funds in the fund will be expended in an expeditious and timely manner;

"(5) all funds in the fund as a result of capitalization grants under this title and section 205(m) of this Act will first be used to assure maintenance of progress, as determined by the Governor of the State, toward compliance with enforceable deadlines, goals, and requirements of this Act, including the municipal compliance deadline;

Post, p. 27.

"(6) treatment works eligible under section 603(c)(1) of this Act which will be constructed in whole or in part before fiscal year 1995 with funds directly made available by capitalization grants under this title and section 205(m) of this Act will meet the requirements of, or otherwise be treated (as determined by the Governor of the State) under sections 201(b), 201(g)(1), 201(g)(2), 201(g)(3), 201(g)(5), 201(g)(6), 201(n)(1), 201(o), 204(a)(1), 204(a)(2), 204(b)(1), 204(d)(2), 211, 218, 511(c)(1), and 513 of this Act in the same manner as treatment works constructed with assistance under title II of this Act;

33 USC 1281, 1284, 1291, 1298, 1371, 1372.

33 USC 1281.

"(7) in addition to complying with the requirements of this title, the State will commit or expend each quarterly grant payment which it will receive under this title in accordance with laws and procedures applicable to the commitment or expenditure of revenues of the State;

"(8) in carrying out the requirements of section 606 of this Act, the State will use accounting, audit, and fiscal procedures conforming to generally accepted government accounting standards;

Post, p. 25.

Loans.

"(9) the State will require as a condition of making a loan or providing other assistance, as described in section 603(d) of this Act, from the fund that the recipient of such assistance will maintain project accounts in accordance with generally accepted government accounting standards; and

Reports.

"(10) the State will make annual reports to the Administrator on the actual use of funds in accordance with section 606(d) of this Act.

Post, p. 26.

"SEC. 603. WATER POLLUTION CONTROL REVOLVING LOAN FUNDS.

33 USC 1383.

"(a) Requirements for Obligation of Grant Funds.—Before a State may receive a capitalization grant with funds made available under this title and section 205(m) of this Act, the State shall first establish a water pollution control revolving fund which complies with the requirements of this section.

"(b) Administration.—Each State water pollution control revolving fund shall be administered by an instrumentality of the State with such powers and limitations as may be required to operate such fund in accordance with the requirements and objectives of this Act.

"(c) Projects Eligible for Assistance.—The amounts of funds available to each State water pollution control revolving fund shall be used only for providing financial assistance (1) to any municipality, intermunicipal, interstate, or State agency for construction of publicly owned treatment works (as defined in section 212 of this Act), (2) for the implementation of a management program established under section 319 of this Act, and (3) for development and implementation of a conservation and management plan under section 320 of this Act. The fund shall be established, maintained, and credited with repayments, and the fund balance shall be available in perpetuity for providing such financial assistance.

33 USC 1292.

Post, p. 52.

Post, p. 61.

"(d) Types of Assistance.—Except as otherwise limited by State law, a water pollution control revolving fund of a State under this section may be used only—

"(1) to make loans, on the condition that—

"(A) such loans are made at or below market interest rates, including interest free loans, at terms not to exceed 20 years;

"(B) annual principal and interest payments will commence not later than 1 year after completion of any project and all loans will be fully amortized not later than 20 years after project completion;

"(C) the recipient of a loan will establish a dedicated source of revenue for repayment of loans; and

"(D) the fund will be credited with all payments of principal and interest on all loans;

"(2) to buy or refinance the debt obligation of municipalities and intermunicipal and interstate agencies within the State at or below market rates, where such debt obligations were incurred after March 7, 1985;

Insurance.

"(3) to guarantee, or purchase insurance for, local obligations where such action would improve credit market access or reduce interest rates;

Securities.

"(4) as a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the State if the proceeds of the sale of such bonds will be deposited in the fund;

"(5) to provide loan guarantees for similar revolving funds established by municipalities or intermunicipal agencies;

"(6) to earn interest on fund accounts; and

"(7) for the reasonable costs of administering the fund and conducting activities under this title, except that such amounts shall not exceed 4 percent of all grant awards to such fund under this title.

"(e) Limitation To Prevent Double Benefits.—If a State makes, from its water pollution revolving fund, a loan which will finance the cost of facility planning and the preparation of plans, specifications, and estimates for construction of publicly owned treatment works, the State shall ensure that if the recipient of such loan receives a grant under section 201(g) of this Act for construction of such treatment works and an allowance under section 201(l)(1) of this Act for non-Federal funds expended for such planning and preparation, such recipient will promptly repay such loan to the extent of such allowance.

33 USC 1281.

"(f) Consistency With Planning Requirements.—A State may provide financial assistance from its water pollution control revolving fund only with respect to a project which is consistent with plans, if any, developed under sections 205(j), 208, 303(e), 319, and 320 of this Act.

33 USC 1285, 1288, 1313; *post*, pp. 52, 61.

"(g) Priority List Requirement.—The State may provide financial assistance from its water pollution control revolving fund only with respect to a project for construction of a treatment works described in subsection (c)(1) if such project is on the State's priority list under section 216 of this Act. Such assistance may be provided regardless of the rank of such project on such list.

33 USC 1296.

"(h) Eligibility of Non-Federal Share of Construction Grant Projects.—A State water pollution control revolving fund may provide assistance (other than under subsection (d)(1) of this section) to a municipality or intermunicipal or interstate agency with respect to the non-Federal share of the costs of a treatment works project for which such municipality or agency is receiving assistance from the Administrator under any other authority only if such assistance is necessary to allow such project to proceed.

"SEC. 604. ALLOTMENT OF FUNDS.

33 USC 1384.

"(a) Formula.—Sums authorized to be appropriated to carry out this section for each of fiscal years 1989 and 1990 shall be allotted by the Administrator in accordance with section 205(c) of this Act. 33 USC 1285.

"(b) Reservation of Funds for Planning.—Each State shall reserve each fiscal year 1 percent of the sums allotted to such State under this section for such fiscal year, or $100,000, whichever amount is greater, to carry out planning under sections 205(j) and 303(e) of this Act. 33 USC 1313.

"(c) Allotment Period.—

"(1) Period of availability for grant award.—Sums allotted to a State under this section for a fiscal year shall be available for obligation by the State during the fiscal year for which sums are authorized and during the following fiscal year.

"(2) Reallotment of unobligated funds.—The amount of any allotment not obligated by the State by the last day of the 2-year period of availability established by paragraph (1) shall be immediately reallotted by the Administrator on the basis of the same ratio as is applicable to sums allotted under title II of this Act for the second fiscal year of such 2-year period. 33 USC 1281. None of the funds reallotted by the Administrator shall be reallotted to any State which has not obligated all sums allotted to such State in the first fiscal year of such 2-year period.

"SEC. 605. CORRECTIVE ACTION.

33 USC 1385.

"(a) Notification of Noncompliance.—If the Administrator determines that a State has not complied with its agreement with the Administrator under section 602 of this Act or any other requirement of this title, the Administrator shall notify the State of such noncompliance and the necessary corrective action. *Ante*, p. 22.

"(b) Withholding of Payments.—If a State does not take corrective action within 60 days after the date a State receives notification of such action under subsection (a), the Administrator shall withhold additional payments to the State until the Administrator is satisfied that the State has taken the necessary corrective action.

"(c) Reallotment of Withheld Payments.—If the Administrator is not satisfied that adequate corrective actions have been taken by the State within 12 months after the State is notified of such actions under subsection (a), the payments withheld from the State by the Administrator under subsection (b) shall be made available for reallotment in accordance with the most recent formula for allotment of funds under this title.

"SEC. 606. AUDITS, REPORTS, AND FISCAL CONTROLS; INTENDED USE PLAN.

33 USC 1386.

"(a) Fiscal Control and Auditing Procedures.—Each State electing to establish a water pollution control revolving fund under this title shall establish fiscal controls and accounting procedures sufficient to assure proper accounting during appropriate accounting periods for—

"(1) payments received by the fund;

"(2) disbursements made by the fund; and

"(3) fund balances at the beginning and end of the accounting period.

"(b) Annual Federal Audits.—The Administrator shall, at least on an annual basis, conduct or require each State to have independently conducted reviews and audits as may be deemed necessary or appropriate by the Administrator to carry out the objectives of this section. Audits of the use of funds deposited in the water pollution revolving fund established by such State shall be conducted in accordance with the auditing procedures of the General Accounting Office, including chapter 75 of title 31, United States Code.

31 USC 7501 *et seq.*

"(c) Intended Use Plan.—After providing for public comment and review, each State shall annually prepare a plan identifying the intended uses of the amounts available to its water pollution control revolving fund. Such intended use plan shall include, but not be limited to—

"(1) a list of those projects for construction of publicly owned treatment works on the State's priority list developed pursuant to section 216 of this Act and a list of activities eligible for assistance under sections 319 and 320 of this Act;

33 USC 1296.

Post, pp. 52, 62.

"(2) a description of the short- and long-term goals and objectives of its water pollution control revolving fund;

"(3) information on the activities to be supported, including a description of project categories, discharge requirements under titles III and IV of this Act, terms of financial assistance, and communities served;

33 USC 1311, 1341.

"(4) assurances and specific proposals for meeting the requirements of paragraphs (3), (4), (5), and (6) of section 602(b) of this Act; and

Ante, p. 22.

"(5) the criteria and method established for the distribution of funds.

Loans.

"(d) Annual Report.—Beginning the first fiscal year after the receipt of payments under this title, the State shall provide an annual report to the Administrator describing how the State has met the goals and objectives for the previous fiscal year as identified in the plan prepared for the previous fiscal year pursuant to subsection (c), including identification of loan recipients, loan amounts, and loan terms and similar details on other forms of financial assistance provided from the water pollution control revolving fund.

Loans.

"(e) Annual Federal Oversight Review.—The Administrator shall conduct an annual oversight review of each State plan prepared under subsection (c), each State report prepared under subsection (d), and other such materials as are considered necessary and appropriate in carrying out the purposes of this title. After reasonable notice by the Administrator to the State or the recipient of a loan from a water pollution control revolving fund, the State or loan recipient shall make available to the Administrator such records as the Administrator reasonably requires to review and determine compliance with this title.

"(f) Applicability of Title II Provisions.—Except to the extent provided in this title, the provisions of title II shall not apply to grants under this title.

33 USC 1281.

33 USC 1387.

"SEC. 607. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out the purposes of this title the following sums:

"(1) $1,200,000,000 per fiscal year for each of fiscal years 1989 and 1990;

"(2) $2,400,000,000 for fiscal year 1991;

"(3) $1,800,000,000 for fiscal year 1992;

"(4) $1,200,000,000 for fiscal year 1993; and

"(5) $600,000,000 for fiscal year 1994.".

(b) STATE-OPTION TO USE TITLE II FUNDS.—Section 205 is amended by adding at the end thereof the following new subsection: 33 USC 1285.

"(m) DISCRETIONARY DEPOSITS INTO STATE WATER POLLUTION CONTROL REVOLVING FUNDS.—

"(1) FROM CONSTRUCTION GRANT ALLOTMENTS.—In addition to any amounts deposited in a water pollution control revolving fund established by a State under title VI, upon request of the Governor of such State, the Administrator shall make available to the State for deposit, as capitalization grants, in such fund in any fiscal year beginning after September 30, 1986, such portion of the amounts allotted to such State under this section for such fiscal year as the Governor considers appropriate; except that (A) in fiscal year 1987, such deposit may not exceed 50 percent of the amounts allotted to such State under this section for such fiscal year, and (B) in fiscal year 1988, such deposit may not exceed 75 percent of the amounts allotted to such State under this section for this fiscal year. *Ante*, p. 22.

"(2) NOTICE REQUIREMENT.—The Governor of a State may make a request under paragraph (1) for a deposit into the water pollution control revolving fund of such State—

"(A) in fiscal year 1987 only if no later than 90 days after the date of the enactment of this subsection, and

"(B) in each fiscal year thereafter only if 90 days before the first day of such fiscal year,

the State provides notice of its intent to make such deposit.

"(3) EXCEPTION.—Sums reserved under section 205(j) of this Act shall not be available for obligation under this subsection.".

(c) REPORT TO CONGRESS.—Section 516 is amended by adding at the end thereof the following new subsection: 33 USC 1375.

"(g) STATE REVOLVING FUND REPORT.—

"(1) IN GENERAL.—Not later than February 10, 1990, the Administrator shall submit to Congress a report on the financial status and operations of water pollution control revolving funds established by the States under title VI of this Act. The Administrator shall prepare such report in cooperation with the States, including water pollution control agencies and other water pollution control planning and financing agencies.

"(2) CONTENTS.—The report under this subsection shall also include the following:

"(A) an inventory of the facilities that are in significant noncompliance with the enforceable requirements of this Act;

"(B) an estimate of the cost of construction necessary to bring such facilities into compliance with such requirements;

"(C) an assessment of the availability of sources of funds for financing such needed construction, including an estimate of the amount of funds available for providing assistance for such construction through September 30, 1999, from the water pollution control revolving funds established by the States under title VI of this Act;

Loans.

"(D) an assessment of the operations, loan portfolio, and loan conditions of such revolving funds;

"(E) an assessment of the effect on user charges of the assistance provided by such revolving funds compared to the assistance provided with funds appropriated pursuant to section 207 of this Act; and

33 USC 1287.

"(F) an assessment of the efficiency of the operation and maintenance of treatment works constructed with assistance provided by such revolving funds compared to the efficiency of the operation and maintenance of treatment works constructed with assistance provided under section 201 of this Act.".

33 USC 1281.

SEC. 213. IMPROVEMENT PROJECTS.

(a) Avalon, California.—The Administrator shall make a grant of $3,000,000 from funds allotted under section 205 of the Federal Water Pollution Control Act to the State of California for fiscal year 1987 to the city of Avalon, California, for improvements to the publicly owned treatment works of such city.

33 USC 1285.

(b) Walker and Smithfield Townships, Pennsylvania.—Out of funds available for grants in the State of Pennsylvania under the third sentence of section 201(g)(1) of the Federal Water Pollution Control Act in fiscal year 1987, the Administrator shall make grants—

(1) to Walker Township, Pennsylvania, for developing a collector system and connecting its wastewater treatment system into the Huntingdon Borough, Pennsylvania, sewage treatment plant, and

(2) to Smithfield Township, Pennsylvania, for rehabilitating and extending its collector system.

(c) Taylor Mill, Kentucky.—Notwithstanding section 201(g)(1) of the Federal Water Pollution Control Act or any other provision of law, the Administrator shall make a grant of $250,000 from funds allotted under section 205 of such Act to the State of Kentucky for fiscal year 1986 to the city of Taylor Mill, Kentucky, for the repair and reconstruction, as necessary, of the publicly owned treatment works of such city.

(d) Nevada County, California.—Out of funds available for grants in the State of California under the third sentence of section 201(g)(1) of the Federal Water Pollution Control Act in fiscal year 1987, the Administrator shall make a grant for the construction of a collection system serving the Glenshire/Devonshire area of Nevada County, California, to deliver waste to the Tahoe-Truckee Sanitary District's regional wastewater treatment facility.

(e) Treatment Works for Wanaque, New Jersey.—In fiscal year 1987 and succeeding fiscal years, the Administrator shall make grants to the Wanaque Valley Regional Sewerage Authority, New Jersey, from funds allotted under section 205 of the Federal Water Pollution Control Act to the State of New Jersey for such fiscal year, for the construction of treatment works with a total treatment capacity of 1,050,000 gallons per day (including a treatment module with a treatment capacity of 350,000 gallons per day). Notwithstanding section 202 of such Act, the Federal share of the cost of construction of such treatment works shall be 75 percent.

33 USC 1282.

(f) Treatment Works for Lena, Illinois.—The Administrator shall make grants to the village of Lena, Illinois, from funds allotted under section 205 of the Federal Water Pollution Control Act to the

State of Illinois for fiscal years beginning after September 30, 1986, for the construction of a replacement moving bed filter press for the treatment works of such village. Notwithstanding section 202 of the Federal Water Pollution Control Act, the Federal share of the cost of construction of such project shall be 75 percent. 33 USC 1282.

(g) PRIORITY FOR COURT-ORDERED AND OTHER PROJECTS.—The State of Pennsylvania, from funds allotted to it under section 205 of the Federal Water Pollution Control Act, shall give priority for construction of— Pennsylvania. Wyoming. 33 USC 1285.

(1) the Wyoming Valley Sanitary Authority Secondary Treatment project mandated under Federal court order, regardless of the date of start of construction made pursuant to the court order; and

(2) a project for wastewater treatment for Altoona, Pennsylvania.

SEC. 214. CHICAGO TUNNEL AND RESERVOIR PROJECT.

The Chicago tunnel and reservoir project may receive grants under the last sentence of section 201(g)(1) of the Federal Water Pollution Control Act without regard to the limitation contained in such sentence if the Administrator determines that such project meets the cost-effectiveness requirements of sections 217 and 218 of such Act without any redesign or reconstruction and if the Governor of the affected State demonstrates to the satisfaction of the Administrator the water quality benefits of such project. 33 USC 1281. 33 USC 1297, 1298.

SEC. 215. AD VALOREM TAX DEDICATION.

For the purposes of complying with section 204(b)(1) of the Federal Water Pollution Control Act, the ad valorem tax user charge systems of the town of Hampton and the city of Nashua, New Hampshire, shall be deemed to have been dedicated as of December 27, 1977. The Administrator shall review such ad valorem tax user charge systems for compliance with the remaining requirements of such section and related regulations of the Environmental Protection Agency. New Hampshire. *Ante*, p. 18.

TITLE III—STANDARDS AND ENFORCEMENTS

SEC. 301. COMPLIANCE DATES.

(a) PRIORITY TOXIC POLLUTANTS.—Section 301(b)(2)(C) is amended by striking out "not later than July 1, 1984," and inserting after "of this paragraph" the following: "as expeditiously as practicable but in no case later than three years after the date such limitations are promulgated under section 304(b), and in no case later than March 31, 1989". 33 USC 1311. 33 USC 1314.

(b) OTHER TOXIC POLLUTANTS.—Section 301(b)(2)(D) is amended by striking out "not later than three years after the date such limitations are established" and inserting in lieu thereof "as expeditiously as practicable, but in no case later than three years after the date such limitations are promulgated under section 304(b), and in no case later than March 31, 1989".

(c) CONVENTIONAL POLLUTANTS.—Section 301(b)(2)(E) is amended by striking "not later than July 1, 1984," and inserting in lieu thereof "as expeditiously as practicable but in no case later than

33 USC 1314.

three years after the date such limitations are promulgated under section 304(b), and in no case later than March 31, 1989, compliance with".

33 USC 1311.

(d) Other Pollutants.—Section 301(b)(2)(F) is amended by striking "not" after "subparagraph (A) of this paragraph" and inserting in lieu thereof "as expeditiously as practicable but in no case", and by striking "or not later than July 1, 1984," and all that follows through the end of the sentence and inserting in lieu thereof "and in no case later than March 31, 1989.".

(e) Stricter BPT.—Section 301(b) is amended by adding at the end the following new paragraph:

"(3)(A) for effluent limitations under paragraph (1)(A)(i) of this subsection promulgated after January 1, 1982, and requiring a level of control substantially greater or based on fundamentally different control technology than under permits for an industrial category issued before such date, compliance as expeditiously as practicable but in no case later than three years after the date such limitations are promulgated under section 304(b), and in no case later than March 31, 1989; and

"(B) for any effluent limitation in accordance with paragraph (1)(A)(i), (2)(A)(i), or (2)(E) of this subsection established only on the basis of section 402(a)(1) in a permit issued after enactment of the Water Quality Act of 1987, compliance as expeditiously as practicable but in no case later than three years after the date such limitations are established, and in no case later than March 31, 1989.".

33 USC 1311 note.

33 USC 1317.

(f) Deadlines for Regulations for Certain Toxic Pollutants.—The Administrator shall promulgate final regulations establishing effluent limitations in accordance with sections 301(b)(2)(A) and 307(b)(1) of the Federal Water Pollution Control Act for all toxic pollutants referred to in table 1 of Committee Print Numbered 95-30 of the Committee on Public Works and Transportation of the House of Representatives which are discharged from the categories of point sources in accordance with the following table:

Category	Date by which the final regulation shall be promulgated
Organic chemicals and plastics and synthetic fibers	December 31, 1986.
Pesticides	December 31, 1986.

SEC. 302. MODIFICATION FOR NONCONVENTIONAL POLLUTANTS.

(a) Listing of Pollutants.—Section 301(g) is amended by redesignating paragraph (2) (and any references thereto) as paragraph (3) and by striking out all that precedes subparagraph (A) of paragraph (1) and inserting in lieu thereof the following:

"(g) Modifications for Certain Nonconventional Pollutants.—

State and local governments.

"(1) General authority.—The Administrator, with the concurrence of the State, may modify the requirements of subsection (b)(2)(A) of this section with respect to the discharge from any point source of ammonia, chlorine, color, iron, and total phenols (4AAP) (when determined by the Administrator to be a pollutant covered by subsection (b)(2)(F)) and any other pollutant which the Administrator lists under paragraph (4) of this subsection.

"(2) REQUIREMENTS FOR GRANTING MODIFICATIONS.—A modification under this subsection shall be granted only upon a showing by the owner or operator of a point source satisfactory to the Administrator that—".

(b) PROCEDURE FOR LISTING ADDITIONAL POLLUTANTS; REMOVAL.—Section 301(g) is further amended by adding at the end thereof the following new paragraphs: *Ante*, p. 30.

"(4) PROCEDURES FOR LISTING ADDITIONAL POLLUTANTS.—

"(A) GENERAL AUTHORITY.—Upon petition of any person, the Administrator may add any pollutant to the list of pollutants for which modification under this section is authorized (except for pollutants identified pursuant to section 304(a)(4) of this Act, toxic pollutants subject to section 307(a) of this Act, and the thermal component of discharges) in accordance with the provisions of this paragraph. 33 USC 1314. 33 USC 1317.

"(B) REQUIREMENTS FOR LISTING.—

"(i) SUFFICIENT INFORMATION.—The person petitioning for listing of an additional pollutant under this subsection shall submit to the Administrator sufficient information to make the determinations required by this subparagraph.

"(ii) TOXIC CRITERIA DETERMINATION.—The Administrator shall determine whether or not the pollutant meets the criteria for listing as a toxic pollutant under section 307(a) of this Act.

"(iii) LISTING AS TOXIC POLLUTANT.—If the Administrator determines that the pollutant meets the criteria for listing as a toxic pollutant under section 307(a), the Administrator shall list the pollutant as a toxic pollutant under section 307(a).

"(iv) NONCONVENTIONAL CRITERIA DETERMINATION.—If the Administrator determines that the pollutant does not meet the criteria for listing as a toxic pollutant under such section and determines that adequate test methods and sufficient data are available to make the determinations required by paragraph (2) of this subsection with respect to the pollutant, the Administrator shall add the pollutant to the list of pollutants specified in paragraph (1) of this subsection for which modifications are authorized under this subsection.

"(C) REQUIREMENTS FOR FILING OF PETITIONS.—A petition for listing of a pollutant under this paragraph—

"(i) must be filed not later than 270 days after the date of promulgation of an applicable effluent guideline under section 304;

"(ii) may be filed before promulgation of such guideline; and

"(iii) may be filed with an application for a modification under paragraph (1) with respect to the discharge of such pollutant.

"(D) DEADLINE FOR APPROVAL OF PETITION.—A decision to add a pollutant to the list of pollutants for which modifications under this subsection are authorized must be made within 270 days after the date of promulgation of an applicable effluent guideline under section 304.

"(E) BURDEN OF PROOF.—The burden of proof for making the determinations under subparagraph (B) shall be on the petitioner.

"(5) REMOVAL OF POLLUTANTS.—The Administrator may remove any pollutant from the list of pollutants for which modifications are authorized under this subsection if the Administrator determines that adequate test methods and sufficient data are no longer available for determining whether or not modifications may be granted with respect to such pollutant under paragraph (2) of this subsection.".

(c) DEADLINE FOR APPROVAL OF MODIFICATIONS.—Section 301(j) is amended— 33 USC 1311.

(1) in paragraph (2) by striking out "Any" and inserting in lieu thereof "Subject to paragraph (3) of this section, any"; and

(2) by adding at the end thereof the following new paragraphs:

"(3) COMPLIANCE REQUIREMENTS UNDER SUBSECTION (g).—

"(A) EFFECT OF FILING.—An application for a modification under subsection (g) and a petition for listing of a pollutant as a pollutant for which modifications are authorized under such subsection shall not stay the requirement that the person seeking such modification or listing comply with effluent limitations under this Act for all pollutants not the subject of such application or petition.

"(B) EFFECT OF DISAPPROVAL.—Disapproval of an application for a modification under subsection (g) shall not stay the requirement that the person seeking such modification comply with all applicable effluent limitations under this Act.

"(4) DEADLINE FOR SUBSECTION (g) DECISION.—An application for a modification with respect to a pollutant filed under subsection (g) must be approved or disapproved not later than 365 days after the date of such filing; except that in any case in which a petition for listing such pollutant as a pollutant for which modifications are authorized under such subsection is approved, such application must be approved or disapproved not later than 365 days after the date of approval of such petition.".

(d) CONFORMING AMENDMENTS.—(1) Paragraph (3) of section 301(g), as redesignated by subsection (a) of this section, is amended by inserting "LIMITATION ON AUTHORITY TO APPLY FOR SUBSECTION (c) MODIFICATION.—" before "If an owner" and by aligning such paragraph with paragraph (4) of such section, as added by subsection (b) of this section.

(2) Paragraph (2) of section 301(g) (as designated by subsection (a) of this section) is amended by realigning subparagraphs (A), (B), and (C) with subparagraph (A) of paragraph (4), as added by subsection (b) of this section.

(e) APPLICATION.— 33 USC 1311 note.

(1) GENERAL RULE.—Except as provided in paragraph (2), the amendments made by this section shall apply to all requests for modifications under section 301(g) of the Federal Water Pollution Control Act pending on the date of the enactment of this Act and shall not have the effect of extending the deadline established in section 301(j)(1)(B) of such Act.

(2) EXCEPTION.—The amendments made by this section shall not affect any application for a modification with respect to the discharge of ammonia, chlorine, color, iron, or total phenols (4AAP) under section 301(g) of the Federal Water Pollution

Control Act pending on the date of the enactment of this Act; except that the Administrator must approve or disapprove such application not later than 365 days after the date of such enactment.

SEC. 303. DISCHARGES INTO MARINE WATERS.

(a) Consideration of Other Sources of Pollutants.—Section 301(h)(2) is amended by striking out "such modified requirements will not interfere" and inserting in lieu thereof the following: "the discharge of pollutants in accordance with such modified requirements will not interfere, alone or in combination with pollutants from other sources,". 33 USC 1311.

(b) Limitation on Scope of Monitoring.—

(1) General rule.—Section 301(h)(3) is amended by inserting before the semicolon at the end thereof the following: ", and the scope of such monitoring is limited to include only those scientific investigations which are necessary to study the effects of the proposed discharge".

(2) Limitation on applicability.—The amendment made by subsection (b) shall only apply to modifications and renewals of modifications which are tentatively or finally approved after the date of the enactment of this Act. 33 USC 1311 note.

(c) Urban Area Pretreatment Program.—Section 301(h) is amended by redesignating paragraphs (6) and (7), and any references thereto, as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) in the case of any treatment works serving a population of 50,000 or more, with respect to any toxic pollutant introduced into such works by an industrial discharger for which pollutant there is no applicable pretreatment requirement in effect, sources introducing waste into such works are in compliance with all applicable pretreatment requirements, the applicant will enforce such requirements, and the applicant has in effect a pretreatment program which, in combination with the treatment of discharges from such works, removes the same amount of such pollutant as would be removed if such works were to apply secondary treatment to discharges and if such works had no pretreatment program with respect to such pollutant;".

(d) Primary Treatment for Effluent.—

(1) General rule.—Section 301(h) is amended by striking out the period at the end of paragraph (8) (as redesignated by subsection (c) of this section) and inserting in lieu thereof a semicolon and by inserting after such paragraph (8) the following new paragraph:

"(9) the applicant at the time such modification becomes effective will be discharging effluent which has received at least primary or equivalent treatment and which meets the criteria established under section 304(a)(1) of this Act after initial mixing in the waters surrounding or adjacent to the point at which such effluent is discharged.". 33 USC 1314.

(2) Primary or equivalent treatment defined.—Such section is further amended by inserting after the second sentence the following new sentence: "For the purposes of paragraph (9), 'primary or equivalent treatment' means treatment by screening, sedimentation, and skimming adequate to remove at least 30 percent of the biological oxygen demanding material and of

the suspended solids in the treatment works influent, and disinfection, where appropriate.".

Fish and fishing.
Wildlife.
Ante, p. 33.

(e) Limitations on Issuance of Permits.—Section 301(h) is further amended by adding at the end thereof the following new sentences: "In order for a permit to be issued under this subsection for the discharge of a pollutant into marine waters, such marine waters must exhibit characteristics assuring that water providing dilution does not contain significant amounts of previously discharged effluent from such treatment works. No permit issued under this subsection shall authorize the discharge of any pollutant into saline estuarine waters which at the time of application do not support a balanced indigenous population of shellfish, fish and wildlife, or allow recreation in and on the waters or which exhibit ambient water quality below applicable water quality standards adopted for the protection of public water supplies, shellfish, fish and wildlife or recreational activities or such other standards necessary to assure support and protection of such uses. The prohibition contained in the preceding sentence shall apply without regard to the presence or absence of a causal relationship between such characteristics and the applicant's current or proposed discharge. Notwithstanding any other provisions of this subsection, no permit may be issued under this subsection for discharge of a pollutant into the New York Bight Apex consisting of the ocean waters of the Atlantic Ocean westward of 73 degrees 30 minutes west longitude and northward of 40 degrees 10 minutes north latitude.".

Contracts.

(f) Application for Ocean Discharge Modification.—Section 301(j)(1)(A) is amended by inserting before the semicolon at the end thereof the following: ", except that a publicly owned treatment works which prior to December 31, 1982, had a contractual arrangement to use a portion of the capacity of an ocean outfall operated by another publicly owned treatment works which has applied for or received modification under subsection (h), may apply for a modification of subsection (h) in its own right not later than 30 days after the date of the enactment of the Water Quality Act of 1987".

33 USC 1311 note.

(g) Grandfather of Certain Applicants.—The amendments made by subsections (a), (c), (d), and (e) of this section shall not apply to an application for a permit under section 301(h) of the Federal Water Pollution Control Act which has been tentatively or finally approved by the Administrator before the date of the enactment of this Act; except that such amendments shall apply to all renewals of such permits after such date of enactment.

SEC. 304. FILING DEADLINE FOR TREATMENT WORKS MODIFICATION.

33 USC 1311.

(a) Extension.—The second sentence of section 301(i)(1) is amended by striking out "of this subsection." and inserting in lieu thereof "of the Water Quality Act of 1987.".

(b) Applicability.—The amendment made by subsection (a) shall not apply to those treatment works which are subject to a compliance schedule established before the date of the enactment of this Act by a court order or a final administrative order.

SEC. 305. INNOVATIVE TECHNOLOGY COMPLIANCE DEADLINES FOR DIRECT DISCHARGERS.

(a) Extension of Deadline.—Section 301(k) is amended by striking out "July 1, 1987," and inserting in lieu thereof "two years after the date for compliance with such effluent limitation which would otherwise be applicable under such subsection,".

(b) **Extension to Conventional Pollutants.**—Section 301(k) is amended by inserting "or (b)(2)(E)" after "(b)(2)(A)" each place it appears. 33 USC 1311.

SEC. 306. FUNDAMENTALLY DIFFERENT FACTORS.

(a) **General Rule.**—Section 301 is amended by adding at the end the following new subsections:

"(n) **Fundamentally Different Factors.**—

"(1) **General rule.**—The Administrator, with the concurrence of the State, may establish an alternative requirement under subsection (b)(2) or section 307(b) for a facility that modifies the requirements of national effluent limitation guidelines or categorical pretreatment standards that would otherwise be applicable to such facility, if the owner or operator of such facility demonstrates to the satisfaction of the Administrator that— State and local governments. 33 USC 1317.

"(A) the facility is fundamentally different with respect to the factors (other than cost) specified in section 304(b) or 304(g) and considered by the Administrator in establishing such national effluent limitation guidelines or categorical pretreatment standards; 33 USC 1314.

"(B) the application—

"(i) is based solely on information and supporting data submitted to the Administrator during the rulemaking for establishment of the applicable national effluent limitation guidelines or categorical pretreatment standard specifically raising the factors that are fundamentally different for such facility; or

"(ii) is based on information and supporting data referred to in clause (i) and information and supporting data the applicant did not have a reasonable opportunity to submit during such rulemaking;

"(C) the alternative requirement is no less stringent than justified by the fundamental difference; and

"(D) the alternative requirement will not result in a nonwater quality environmental impact which is markedly more adverse than the impact considered by the Administrator in establishing such national effluent limitation guideline or categorical pretreatment standard.

"(2) **Time limit for applications.**—An application for an alternative requirement which modifies the requirements of an effluent limitation or pretreatment standard under this subsection must be submitted to the Administrator within 180 days after the date on which such limitation or standard is established or revised, as the case may be.

"(3) **Time limit for decision.**—The Administrator shall approve or deny by final agency action an application submitted under this subsection within 180 days after the date such application is filed with the Administrator.

"(4) **Submission of information.**—The Administrator may allow an applicant under this subsection to submit information and supporting data until the earlier of the date the application is approved or denied or the last day that the Administrator has to approve or deny such application.

"(5) **Treatment of pending applications.**—For the purposes of this subsection, an application for an alternative requirement based on fundamentally different factors which is pending on the date of the enactment of this subsection shall be treated as having been submitted to the Administrator on the 180th day following such date of enactment. The applicant may amend the application to take into account the provisions of this subsection.

"(6) Effect of submission of application.—An application for an alternative requirement under this subsection shall not stay the applicant's obligation to comply with the effluent limitation guideline or categorical pretreatment standard which is the subject of the application.

"(7) Effect of denial.—If an application for an alternative requirement which modifies the requirements of an effluent limitation or pretreatment standard under this subsection is denied by the Administrator, the applicant must comply with such limitation or standard as established or revised, as the case may be.

"(8) Reports.—Every 6 months after the date of the enactment of this subsection, the Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the status of applications for alternative requirements which modify the requirements of effluent limitations under section 301 or 304 of this Act or any national categorical pretreatment standard under section 307(b) of this Act filed before, on, or after such date of enactment.

33 USC 1311, 1314.
33 USC 1317.

"(o) Application Fees.—The Administrator shall prescribe and collect from each applicant fees reflecting the reasonable administrative costs incurred in reviewing and processing applications for modifications submitted to the Administrator pursuant to subsections (c), (g), (i), (k), (m), and (n) of section 301, section 304(d)(4), and section 316(a) of this Act. All amounts collected by the Administrator under this subsection shall be deposited into a special fund of the Treasury entitled 'Water Permits and Related Services' which shall thereafter be available for appropriation to carry out activities of the Environmental Protection Agency for which such fees were collected.".

33 USC 1326.

33 USC 1311.
Ante, p. 35.

(b) Conforming Amendment.—Section 301(l) is amended by striking out "The" and inserting in lieu thereof "Other than as provided in subsection (n) of this section, the".

33 USC 1342 note.

(c) Phosphate Fertilizer Effluent Limitation.—

(1) Issuance of permit.—As soon as possible after the date of the enactment of this Act, but not later than 180 days after such date of enactment, the Administrator shall issue permits under section 402(a)(1)(B) of the Federal Water Pollution Control Act with respect to facilities—

(A) which were under construction on or before April 8, 1974, and

(B) for which the Administrator is proposing to revise the applicability of the effluent limitation established under section 301(b) of such Act for phosphate subcategory of the fertilizer manufacturing point source category to exclude such facilities.

(2) Limitations on statutory construction.—Nothing in this section shall be construed—

(A) to require the Administrator to permit the discharge of gypsum or gypsum waste into the navigable waters,

(B) to affect the procedures and standards applicable to the Administrator in issuing permits under section 402(a)(1)(B) of the Federal Water Pollution Control Act, and

33 USC 1342.

(C) to affect the authority of any State to deny or condition certification under section 401 of such Act with respect to the issuance of permits under section 402(a)(1)(B) of such Act.

33 USC 1341.

SEC. 307. COAL REMINING OPERATIONS.

Section 301 is amended by adding at the end thereof the following:

Ante, p. 35.

"(p) MODIFIED PERMIT FOR COAL REMINING OPERATIONS.—

"(1) IN GENERAL.—Subject to paragraphs (2) through (4) of this subsection, the Administrator, or the State in any case which the State has an approved permit program under section 402(b), may issue a permit under section 402 which modifies the requirements of subsection (b)(2)(A) of this section with respect to the pH level of any pre-existing discharge, and with respect to pre-existing discharges of iron and manganese from the remined area of any coal remining operation or with respect to the pH level or level of iron or manganese in any pre-existing discharge affected by the remining operation. Such modified requirements shall apply the best available technology economically achievable on a case-by-case basis, using best professional judgment, to set specific numerical effluent limitations in each permit.

State and local governments.
33 USC 1342.

"(2) LIMITATIONS.—The Administrator or the State may only issue a permit pursuant to paragraph (1) if the applicant demonstrates to the satisfaction of the Administrator or the State, as the case may be, that the coal remining operation will result in the potential for improved water quality from the remining operation but in no event shall such a permit allow the pH level of any discharge, and in no event shall such a permit allow the discharges of iron and manganese, to exceed the levels being discharged from the remined area before the coal remining operation begins. No discharge from, or affected by, the remining operation shall exceed State water quality standards established under section 303 of this Act.

State and local governments.

33 USC 1313.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) COAL REMINING OPERATION.—The term 'coal remining operation' means a coal mining operation which begins after the date of the enactment of this subsection at a site on which coal mining was conducted before the effective date of the Surface Mining Control and Reclamation Act of 1977.

30 USC 1201 note.

"(B) REMINED AREA.—The term 'remined area' means only that area of any coal remining operation on which coal mining was conducted before the effective date of the Surface Mining Control and Reclamation Act of 1977.

"(C) PRE-EXISTING DISCHARGE.—The term 'pre-existing discharge' means any discharge at the time of permit application under this subsection.

"(4) APPLICABILITY OF STRIP MINING LAWS.—Nothing in this subsection shall affect the application of the Surface Mining Control and Reclamation Act of 1977 to any coal remining operation, including the application of such Act to suspended solids.".

SEC. 308. INDIVIDUAL CONTROL STRATEGIES FOR TOXIC POLLUTANTS.

33 USC 1314.

(a) In General.—Section 304 is amended by adding at the end thereof the following new subsection:

"(l) Individual Control Strategies for Toxic Pollutants.—

"(1) State list of navigable waters and development of strategies.—Not later than 2 years after the date of the enactment of this subsection, each State shall submit to the Administrator for review, approval, and implementation under this subsection—

Agriculture and agricultural commodities.
Fish and fishing.
Wildlife.
33 USC 1311.
33 USC 1313.

"(A) a list of those waters within the State which after the application of effluent limitations required under section 301(b)(2) of this Act cannot reasonably be anticipated to attain or maintain (i) water quality standards for such waters reviewed, revised, or adopted in accordance with section 303(c)(2)(B) of this Act, due to toxic pollutants, or (ii) that water quality which shall assure protection of public health, public water supplies, agricultural and industrial uses, and the protection and propagation of a balanced population of shellfish, fish and wildlife, and allow recreational activities in and on the water;

33 USC 1316, 1317.

"(B) a list of all navigable waters in such State for which the State does not expect the applicable standard under section 303 of this Act will be achieved after the requirements of sections 301(b), 306, and 307(b) are met, due entirely or substantially to discharges from point sources of any toxic pollutants listed pursuant to section 307(a);

"(C) for each segment of the navigable waters included on such lists, a determination of the specific point sources discharging any such toxic pollutant which is believed to be preventing or impairing such water quality and the amount of each such toxic pollutant discharged by each such source; and

33 USC 1342.

"(D) for each such segment, an individual control strategy which the State determines will produce a reduction in the discharge of toxic pollutants from point sources identified by the State under this paragraph through the establishment of effluent limitations under section 402 of this Act and water quality standards under section 303(c)(2)(B) of this Act, which reduction is sufficient, in combination with existing controls on point and nonpoint sources of pollution, to achieve the applicable water quality standard as soon as possible, but not later than 3 years after the date of the establishment of such strategy.

State and local governments.

"(2) Approval or disapproval.—Not later than 120 days after the last day of the 2-year period referred to in paragraph (1), the Administrator shall approve or disapprove the control strategies submitted under paragraph (1) by any State.

"(3) Administrator's action.—If a State fails to submit control strategies in accordance with paragraph (1) or the Administrator does not approve the control strategies submitted by such State in accordance with paragraph (1), then, not later than 1 year after the last day of the period referred to in paragraph (2), the Administrator, in cooperation with such State and after notice and opportunity for public comment, shall implement the requirements of paragraph (1) in such State. In the implementation of such requirements, the Administrator shall, at a minimum, consider for listing under this subsection any navigable waters for which any person submits a petition to the Administrator for listing not later than 120 days after such last day.".

(b) JUDICIAL REVIEW.—Section 509(b)(1) is amended— 33 USC 1369.

(1) by striking out "and (F)" and inserting in lieu thereof "(F)"; and

(2) by inserting after "any permit under section 402," the following: "and (G) in promulgating any individual control strategy under section 304(l),". 33 USC 1342. *Ante*, p. 38.

(c) GUIDANCE TO STATES; INFORMATION ON WATER QUALITY CRITERIA FOR TOXICS.—Section 304(a) is amended by adding at the end the following new paragraphs: 33 USC 1314.

"(7) GUIDANCE TO STATES.—The Administrator, after consultation with appropriate State agencies and on the basis of criteria and information published under paragraphs (1) and (2) of this subsection, shall develop and publish, within 9 months after the date of the enactment of the Water Quality Act of 1987, guidance to the States on performing the identification required by section 304(l)(1) of this Act.

"(8) INFORMATION ON WATER QUALITY CRITERIA.—The Administrator, after consultation with appropriate State agencies and within 2 years after the date of the enactment of the Water Quality Act of 1987, shall develop and publish information on methods for establishing and measuring water quality criteria for toxic pollutants on other bases than pollutant-by-pollutant criteria, including biological monitoring and assessment methods.".

(d) WATER QUALITY CRITERIA FOR TOXIC POLLUTANTS.—Section 303(c)(2) is amended by inserting "(A)" after "(2)" and by adding the following new subparagraph: 33 USC 1313.

"(B) Whenever a State reviews water quality standards pursuant to paragraph (1) of this subsection, or revises or adopts new standards pursuant to this paragraph, such State shall adopt criteria for all toxic pollutants listed pursuant to section 307(a)(1) of this Act for which criteria have been published under section 304(a), the discharge or presence of which in the affected waters could reasonably be expected to interfere with those designated uses adopted by the State, as necessary to support such designated uses. Such criteria shall be specific numerical criteria for such toxic pollutants. Where such numerical criteria are not available, whenever a State reviews water quality standards pursuant to paragraph (1), or revises or adopts new standards pursuant to this paragraph, such State shall adopt criteria based on biological monitoring or assessment methods consistent with information published pursuant to section 304(a)(8). Nothing in this section shall be construed to limit or delay the use of effluent limitations or other permit conditions based on or involving biological monitoring or assessment methods or previously adopted numerical criteria.". State and local governments. 33 USC 1317. 33 USC 1314.

(e) MODIFICATIONS OF EFFLUENT LIMITATIONS.—

(1) IN GENERAL.—Section 302(b) is amended to read as follows: 33 USC 1312.

"(b) MODIFICATIONS OF EFFLUENT LIMITATIONS.—

"(1) NOTICE AND HEARING.—Prior to establishment of any effluent limitation pursuant to subsection (a) of this section, the Administrator shall publish such proposed limitation and within 90 days of such publication hold a public hearing.

"(2) PERMITS.—

"(A) No reasonable relationship.—The Administrator, with the concurrence of the State, may issue a permit which modifies the effluent limitations required by subsection (a) of this section for pollutants other than toxic pollutants if the applicant demonstrates at such hearing that (whether or not technology or other alternative control strategies are available) there is no reasonable relationship between the economic and social costs and the benefits to be obtained (including attainment of the objective of this Act) from achieving such limitation.

"(B) Reasonable progress.—The Administrator, with the concurrence of the State, may issue a permit which modifies the effluent limitations required by subsection (a) of this section for toxic pollutants for a single period not to exceed 5 years if the applicant demonstrates to the satisfaction of the Administrator that such modified requirements (i) will represent the maximum degree of control within the economic capability of the owner and operator of the source, and (ii) will result in reasonable further progress beyond the requirements of section 301(b)(2) toward the requirements of subsection (a) of this section.".

33 USC 1311.

33 USC 1312.
Ante, p. 38.

(2) Conforming amendments.—Section 302(a) is amended—

(A) by inserting "or as identified under section 304(l)" after "in the judgment of the Administrator"; and

(B) by inserting "public health," after "protection of".

(f) Schedule for Review of Guidelines.—Section 304 is amended by adding at the end the following new subsection:

"(m) Schedule for Review of Guidelines.—

Federal Register, publication.

"(1) Publication.—Within 12 months after the date of the enactment of the Water Quality Act of 1987, and biennially thereafter, the Administrator shall publish in the Federal Register a plan which shall—

"(A) establish a schedule for the annual review and revision of promulgated effluent guidelines, in accordance with subsection (b) of this section;

33 USC 1316.

"(B) identify categories of sources discharging toxic or nonconventional pollutants for which guidelines under subsection (b)(2) of this section and section 306 have not previously been published; and

"(C) establish a schedule for promulgation of effluent guidelines for categories identified in subparagraph (B), under which promulgation of such guidelines shall be no later than 4 years after such date of enactment for categories identified in the first published plan or 3 years after the publication of the plan for categories identified in later published plans.

"(2) Public review.—The Administrator shall provide for public review and comment on the plan prior to final publication.".

33 USC 1375 note.

(g) Water Quality Improvement Study.—

(1) Study.—The Administrator shall study the water quality improvements which have been achieved by application of best available technology economically achievable pursuant to section 301(b)(2) of the Federal Water Pollution Control Act. Such study shall include, but not be limited to, an analysis of the effectiveness of the application of best available technology economically achievable pursuant to such section in attaining

applicable water quality standards (including the standard specified in section 302(a) of such Act) and an analysis of the effectiveness of the water quality program under such Act and methods of improving such program, including site specific levels of treatment which will achieve the water quality goals of such Act. *Ante*, p. 40.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Administrator shall submit a report on the results of the study conducted under subsection (a) together with recommendations for improving the water quality program and its effectiveness to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate.

SEC. 309. PRETREATMENT STANDARDS.

(a) EXTENSION OF COMPLIANCE DATE BY POTW.—Section 307 is amended by adding at the end the following: 33 USC 1317.

"(e) COMPLIANCE DATE EXTENSION FOR INNOVATIVE PRETREATMENT SYSTEMS.—In the case of any existing facility that proposes to comply with the pretreatment standards of subsection (b) of this section by applying an innovative system that meets the requirements of section 301(k) of this Act, the owner or operator of the publicly owned treatment works receiving the treated effluent from such facility may extend the date for compliance with the applicable pretreatment standard established under this section for a period not to exceed 2 years— *Ante*, p. 34.

"(1) if the Administrator determines that the innovative system has the potential for industrywide application, and

"(2) if the Administrator (or the State in consultation with the Administrator, in any case in which the State has a pretreatment program approved by the Administrator)— State and local governments.

"(A) determines that the proposed extension will not cause the publicly owned treatment works to be in violation of its permit under section 402 or of section 405 or to contribute to such a violation, and 33 USC 1342, 1345.

"(B) concurs with the proposed extension.".

(b) INCREASE IN EPA EMPLOYEES.—The Administrator shall take such actions as may be necessary to increase the number of employees of the Environmental Protection Agency in order to effectively implement pretreatment requirements under section 307 of the Federal Water Pollution Control Act. 33 USC 1317 note.

SEC. 310. INSPECTION AND ENTRY.

(a) UNAUTHORIZED DISCLOSURE.—

(1) IN GENERAL.—Section 308(b) is amended by striking out all that follows "Code" and inserting in lieu thereof a period and the following: "Any authorized representative of the Administrator (including an authorized contractor acting as a representative of the Administrator) who knowingly or willfully publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law any information which is required to be considered confidential under this subsection shall be fined not more than $1,000 or imprisoned not more than 1 year, or both. Nothing in this subsection shall prohibit the Administrator or an authorized representative of the Administrator (including any authorized contractor acting as a representative of the Administrator) from disclosing records, Confidentiality. Records. 33 USC 1318.

reports, or information to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act.".

33 USC 1318.

(2) CONFORMING AMENDMENT.—Section 308(a)(B) is amended by inserting "(including an authorized contractor acting as a representative of the Administrator)" after "or his authorized representative".

(b) ACCESS BY CONGRESS.—Section 308 is amended by adding at the end the following new subsection:

"(d) ACCESS BY CONGRESS.—Notwithstanding any limitation contained in this section or any other provision of law, all information reported to or otherwise obtained by the Administrator (or any representative of the Administrator) under this Act shall be made available, upon written request of any duly authorized committee of Congress, to such committee.".

SEC. 311. MARINE SANITATION DEVICES.

33 USC 1322.

(a) STATE REGULATION OF HOUSEBOATS.—Section 312(f)(1) is amended by striking out "After" and inserting in lieu thereof "(A) Except as provided in subparagraph (B), after" and by adding at the end thereof the following:

"(B) A State may adopt and enforce a statute or regulation with respect to the design, manufacture, or installation or use of any marine sanitation device on a houseboat, if such statute or regulation is more stringent than the standards and regulations promulgated under this section. For purposes of this paragraph, the term 'houseboat' means a vessel which, for a period of time determined by the State in which the vessel is located, is used primarily as a residence and is not used primarily as a means of transportation.".

(b) STATE ENFORCEMENT.—Section 312(k) is amended by adding at the end the following: "The provisions of this section may also be enforced by a State.".

SEC. 312. CRIMINAL PENALTIES.

33 USC 1319.

Section 309(c) is amended to read as follows:

"(c) CRIMINAL PENALTIES.—

"(1) NEGLIGENT VIOLATIONS.—Any person who—

State and local governments.
33 USC 1311, 1312, 1316, 1317, 1318, 1328, 1345.
33 USC 1342.
33 USC 1344.

"(A) negligently violates section 301, 302, 306, 307, 308, 318, or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator or by a State, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act or in a permit issued under section 404 of this Act by the Secretary of the Army or by a State; or

Hazardous materials.
State and local governments.

"(B) negligently introduces into a sewer system or into a publicly owned treatment works any pollutant or hazardous substance which such person knew or reasonably should have known could cause personal injury or property damage or, other than in compliance with all applicable Federal, State, or local requirements or permits, which causes such treatment works to violate any effluent limitation or condition in any permit issued to the treatment works under section 402 of this Act by the Administrator or a State;

shall be punished by a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment of not more than 2 years, or by both.

"(2) KNOWING VIOLATIONS.—Any person who—

State and local governments. 33 USC 1311, 1312, 1316, 1317, 1318, 1328, 1345. 33 USC 1342. 33 USC 1344.

"(A) knowingly violates section 301, 302, 306, 307, 308, 318, or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator or by a State, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act or in a permit issued under section 404 of this Act by the Secretary of the Army or by a State; or

Hazardous materials.

"(B) knowingly introduces into a sewer system or into a publicly owned treatment works any pollutant or hazardous substance which such person knew or reasonably should have known could cause personal injury or property damage or, other than in compliance with all applicable Federal, State, or local requirements or permits, which causes such treatment works to violate any effluent limitation or condition in a permit issued to the treatment works under section 402 of this Act by the Administrator or a State;

shall be punished by a fine of not less than $5,000 nor more than $50,000 per day of violation, or by imprisonment for not more than 3 years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $100,000 per day of violation, or by imprisonment of not more than 6 years, or by both.

"(3) KNOWING ENDANGERMENT.—

State and local governments.

"(A) GENERAL RULE.—Any person who knowingly violates section 301, 302, 303, 306, 307, 308, 318, or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator or by a State, or in a permit issued under section 404 of this Act by the Secretary of the Army or by a State, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than $250,000 or imprisonment of not more than 15 years, or both. A person which is an organization shall, upon conviction of violating this subparagraph, be subject to a fine of not more than $1,000,000. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both fine and imprisonment.

"(B) ADDITIONAL PROVISIONS.—For the purpose of subparagraph (A) of this paragraph—

"(i) in determining whether a defendant who is an individual knew that his conduct placed another person in imminent danger of death or serious bodily injury—

"(I) the person is responsible only for actual awareness or actual belief that he possessed; and

"(II) knowledge possessed by a person other than the defendant but not by the defendant himself may not be attributed to the defendant;

except that in proving the defendant's possession of actual knowledge, circumstantial evidence may be used, including evidence that the defendant took affirmative steps to shield himself from relevant information;

"(ii) it is an affirmative defense to prosecution that the conduct charged was consented to by the person endangered and that the danger and conduct charged were reasonably foreseeable hazards of—

"(I) an occupation, a business, or a profession; or

"(II) medical treatment or medical or scientific experimentation conducted by professionally approved methods and such other person had been made aware of the risks involved prior to giving consent;

and such defense may be established under this subparagraph by a preponderance of the evidence;

"(iii) the term 'organization' means a legal entity, other than a government, established or organized for any purpose, and such term includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, trust, society, union, or any other association of persons; and

"(iv) the term 'serious bodily injury' means bodily injury which involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

Records.

"(4) FALSE STATEMENTS.—Any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under this Act, shall upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 2 years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or by both.

"(5) TREATMENT OF SINGLE OPERATIONAL UPSET.—For purposes of this subsection, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

"(6) RESPONSIBLE CORPORATE OFFICER AS 'PERSON'.—For the purpose of this subsection, the term 'person' means, in addition to the definition contained in section 502(5) of this Act, any responsible corporate officer.

33 USC 1362.

"(7) HAZARDOUS SUBSTANCE DEFINED.—For the purpose of this subsection, the term 'hazardous substance' means (A) any substance designated pursuant to section 311(b)(2)(A) of this Act, (B) any element, compound, mixture, solution, or substance designated pursuant to section 102 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, (C) any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Act of Congress), (D) any toxic pollutant listed under section 307(a) of this Act, and (E) any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 7 of the Toxic Substances Control Act.".

33 USC 1321.
42 USC 9602.
42 USC 6921.
33 USC 1317.
15 USC 2606.

SEC. 313. CIVIL PENALTIES.

(a) VIOLATIONS OF PRETREATMENT REQUIREMENTS.—

(1) GENERAL RULE.—Section 309(d) is amended by inserting ", or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act," after "section 404 of this Act by a State,".

33 USC 1319.
33 USC 1342.
33 USC 1344.

(2) SAVINGS PROVISION.—No State shall be required before July 1, 1988, to modify a permit program approved or submitted under section 402 of the Federal Water Pollution Control Act as a result of the amendment made by paragraph (1).

State and local governments.
33 USC 1319 note.

(b) INCREASED PENALTY.—

(1) GENERAL RULE.—Section 309(d) is amended by striking out "$10,000 per day of such violation" and inserting in lieu thereof "$25,000 per day for each violation".

(2) INCREASED PENALTIES NOT REQUIRED UNDER STATE PROGRAMS.—The Federal Water Pollution Control Act shall not be construed as requiring a State to have a civil penalty for violations described in section 309(d) of such Act which has the same monetary amount as the civil penalty established by such section, as amended by paragraph (1). Nothing in this paragraph shall affect the Administrator's authority to establish or adjust by regulation a minimum acceptable State civil penalty.

33 USC 1319 note.
33 USC 1251 note.

(c) FACTORS TO CONSIDER IN DETERMINING PENALTY AMOUNT.—Section 309(d) is amended by adding at the end thereof the following: "In determining the amount of a civil penalty the court shall consider the seriousness of the violation or violations, the economic benefit (if any) resulting from the violation, any history of such violations, any good-faith efforts to comply with the applicable requirements, the economic impact of the penalty on the violator, and such other matters as justice may require. For purposes of this subsection, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.".

Courts, U.S.

(d) VIOLATIONS OF SECTION 404 PERMITS.—Section 404(s) is amended—

33 USC 1344.

(1) by striking out paragraph (4);

(2) by redesignating paragraph (5) as paragraph (4); and

(3) in paragraph (4), as so redesignated—

(A) by striking out "$10,000 per day of such violation" and inserting in lieu thereof "$25,000 per day for each violation";

(B) by adding at the end thereof the following: "In determining the amount of a civil penalty the court shall con-

Courts, U.S.

sider the seriousness of the violation or violations, the economic benefit (if any) resulting from the violation, any history of such violations, any good-faith efforts to comply with the applicable requirements, the economic impact of the penalty on the violator, and such other matters as justice may require.".

SEC. 314. ADMINISTRATIVE PENALTIES.

33 USC 1319.

(a) General Rule.—Section 309 is amended by adding at the end thereof the following:

"(g) Administrative Penalties.—

"(1) Violations.—Whenever on the basis of any information available—

33 USC 1311, 1312, 1316, 1317, 1318, 1328, 1345.

33 USC 1342.

33 USC 1344.

"(A) the Administrator finds that any person has violated section 301, 302, 306, 307, 308, 318, or 405 of this Act, or has violated any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator or by a State, or in a permit issued under section 404 by a State, or

"(B) the Secretary of the Army (hereinafter in this subsection referred to as the 'Secretary') finds that any person has violated any permit condition or limitation in a permit issued under section 404 of this Act by the Secretary,

the Administrator or Secretary, as the case may be, may, after consultation with the State in which the violation occurs, assess a class I civil penalty or a class II civil penalty under this subsection.

"(2) Classes of penalties.—

"(A) Class i.—The amount of a class I civil penalty under paragraph (1) may not exceed $10,000 per violation, except that the maximum amount of any class I civil penalty under this subparagraph shall not exceed $25,000. Before issuing an order assessing a civil penalty under this subparagraph, the Administrator or the Secretary, as the case may be, shall give to the person to be assessed such penalty written notice of the Administrator's or Secretary's proposal to issue such order and the opportunity to request, within 30 days of the date the notice is received by such person, a hearing on the proposed order. Such hearing shall not be subject to section 554 or 556 of title 5, United States Code, but shall provide a reasonable opportunity to be heard and to present evidence.

"(B) Class ii.—The amount of a class II civil penalty under paragraph (1) may not exceed $10,000 per day for each day during which the violation continues; except that the maximum amount of any class II civil penalty under this subparagraph shall not exceed $125,000. Except as otherwise provided in this subsection, a class II civil penalty shall be assessed and collected in the same manner, and subject to the same provisions, as in the case of civil penalties assessed and collected after notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code. The Administrator and the Secretary may issue rules for discovery procedures for hearings under this subparagraph.

"(3) DETERMINING AMOUNT.—In determining the amount of any penalty assessed under this subsection, the Administrator or the Secretary, as the case may be, shall take into account the nature, circumstances, extent and gravity of the violation, or violations, and, with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings (if any) resulting from the violation, and such other matters as justice may require. For purposes of this subsection, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

"(4) RIGHTS OF INTERESTED PERSONS.—

"(A) PUBLIC NOTICE.—Before issuing an order assessing a civil penalty under this subsection the Administrator or Secretary, as the case may be, shall provide public notice of and reasonable opportunity to comment on the proposed issuance of such order.

"(B) PRESENTATION OF EVIDENCE.—Any person who comments on a proposed assessment of a penalty under this subsection shall be given notice of any hearing held under this subsection and of the order assessing such penalty. In any hearing held under this subsection, such person shall have a reasonable opportunity to be heard and to present evidence.

"(C) RIGHTS OF INTERESTED PERSONS TO A HEARING.—If no hearing is held under paragraph (2) before issuance of an order assessing a penalty under this subsection, any person who commented on the proposed assessment may petition, within 30 days after the issuance of such order, the Administrator or Secretary, as the case may be, to set aside such order and to provide a hearing on the penalty. If the evidence presented by the petitioner in support of the petition is material and was not considered in the issuance of the order, the Administrator or Secretary shall immediately set aside such order and provide a hearing in accordance with paragraph (2)(A) in the case of a class I civil penalty and paragraph (2)(B) in the case of a class II civil penalty. If the Administrator or Secretary denies a hearing under this subparagraph, the Administrator or Secretary shall provide to the petitioner, and publish in the Federal Register, notice of and the reasons for such denial.

Federal Register, publication.

"(5) FINALITY OF ORDER.—An order issued under this subsection shall become final 30 days after its issuance unless a petition for judicial review is filed under paragraph (8) or a hearing is requested under paragraph (4)(C). If such a hearing is denied, such order shall become final 30 days after such denial.

"(6) EFFECT OF ORDER.—

"(A) LIMITATION ON ACTIONS UNDER OTHER SECTIONS.—Action taken by the Administrator or the Secretary, as the case may be, under this subsection shall not affect or limit the Administrator's or Secretary's authority to enforce any provision of this Act; except that any violation—

"(i) with respect to which the Administrator or the Secretary has commenced and is diligently prosecuting an action under this subsection, State and local governments.

"(ii) with respect to which a State has commenced and is diligently prosecuting an action under a State law comparable to this subsection, or

"(iii) for which the Administrator, the Secretary, or the State has issued a final order not subject to further judicial review and the violator has paid a penalty assessed under this subsection, or such comparable State law, as the case may be,

shall not be the subject of a civil penalty action under subsection (d) of this section or section 311(b) or section 505 of this Act.

33 USC 1321, 1365.

"(B) APPLICABILITY OF LIMITATION WITH RESPECT TO CITIZEN SUITS.—The limitations contained in subparagraph (A) on civil penalty actions under section 505 of this Act shall not apply with respect to any violation for which—

"(i) a civil action under section 505(a)(1) of this Act has been filed prior to commencement of an action under this subsection, or

"(ii) notice of an alleged violation of section 505(a)(1) of this Act has been given in accordance with section 505(b)(1)(A) prior to commencement of an action under this subsection and an action under section 505(a)(1) with respect to such alleged violation is filed before the 120th day after the date on which such notice is given.

"(7) EFFECT OF ACTION ON COMPLIANCE.—No action by the Administrator or the Secretary under this subsection shall affect any person's obligation to comply with any section of this Act or with the terms and conditions of any permit issued pursuant to section 402 or 404 of this Act.

33 USC 1342, 1344.

"(8) JUDICIAL REVIEW.—Any person against whom a civil penalty is assessed under this subsection or who commented on the proposed assessment of such penalty in accordance with paragraph (4) may obtain review of such assessment—

"(A) in the case of assessment of a class I civil penalty, in the United States District Court for the District of Columbia or in the district in which the violation is alleged to have occurred, or

"(B) in the case of assessment of a class II civil penalty, in United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business,

by filing a notice of appeal in such court within the 30-day period beginning on the date the civil penalty order is issued and by simultaneously sending a copy of such notice by certified mail to the Administrator or the Secretary, as the case may be, and the Attorney General. The Administrator or the Secretary shall promptly file in such court a certified copy of the record on which the order was issued. Such court shall not set aside or remand such order unless there is not substantial evidence in the record, taken as a whole, to support the finding of a violation or unless the Administrator's or Secretary's assessment of the penalty constitutes an abuse of discretion and shall not impose additional civil penalties for the same violation unless the Administrator's or Secretary's assessment of the penalty constitutes an abuse of discretion.

Records.

"(9) COLLECTION.—If any person fails to pay an assessment of a civil penalty—

"(A) after the order making the assessment has become final, or

"(B) after a court in an action brought under paragraph (8) has entered a final judgment in favor of the Administrator or the Secretary, as the case may be,

the Administrator or the Secretary shall request the Attorney General to bring a civil action in an appropriate district court to recover the amount assessed (plus interest at currently prevailing rates from the date of the final order or the date of the final judgment, as the case may be). In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review. Any person who fails to pay on a timely basis the amount of an assessment of a civil penalty as described in the first sentence of this paragraph shall be required to pay, in addition to such amount and interest, attorneys fees and costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to 20 percent of the aggregate amount of such person's penalties and nonpayment penalties which are unpaid as of the beginning of such quarter.

"(10) SUBPOENAS.—The Administrator or Secretary, as the case may be, may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, or documents in connection with hearings under this subsection. In case of contumacy or refusal to obey a subpoena issued pursuant to this paragraph and served upon any person, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the administrative law judge or to appear and produce documents before the administrative law judge, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(11) PROTECTION OF EXISTING PROCEDURES.—Nothing in this subsection shall change the procedures existing on the day before the date of the enactment of the Water Quality Act of 1987 under other subsections of this section for issuance and enforcement of orders by the Administrator.".

(b) REPORTS ON ENFORCEMENT MECHANISMS.—The Secretary of the Army and the Administrator shall each prepare and submit a report to the Congress, not later than December 1, 1988, which shall examine and analyze various enforcement mechanisms for use by the Secretary or Administrator, as the case may be, including an administrative civil penalty mechanism. Each of such reports shall also include an examination, prepared in consultation with the Comptroller General, of the efficacy of the Secretary's or the Administrator's existing enforcement authorities and shall include recommendations for improvements in their operation. 33 USC 1375 note.

(c) CONFORMING AMENDMENT.—Section 505(a) is amended by inserting "and section 309(g)(6)" after "Except as provided in subsection (b) of this section". 33 USC 1365. 33 USC 1319.

SEC. 315. CLEAN LAKES.

(a) ESTABLISHMENT AND SCOPE OF PROGRAM.—Section 314(a) is amended to read as follows: 33 USC 1324.

"(a) ESTABLISHMENT AND SCOPE OF PROGRAM.—

"(1) STATE PROGRAM REQUIREMENTS.—Each State on a biennial basis shall prepare and submit to the Administrator for his approval—

"(A) an identification and classification according to eutrophic condition of all publicly owned lakes in such State;

"(B) a description of procedures, processes, and methods (including land use requirements), to control sources of pollution of such lakes;

"(C) a description of methods and procedures, in conjunction with appropriate Federal agencies, to restore the quality of such lakes;

"(D) methods and procedures to mitigate the harmful effects of high acidity, including innovative methods of neutralizing and restoring buffering capacity of lakes and methods of removing from lakes toxic metals and other toxic substances mobilized by high acidity;

"(E) a list and description of those publicly owned lakes in such State for which uses are known to be impaired, including those lakes which are known not to meet applicable water quality standards or which require implementation of control programs to maintain compliance with applicable standards and those lakes in which water quality has deteriorated as a result of high acidity that may reasonably be due to acid deposition; and

"(F) an assessment of the status and trends of water quality in lakes in such State, including but not limited to, the nature and extent of pollution loading from point and nonpoint sources and the extent to which the use of lakes is impaired as a result of such pollution, particularly with respect to toxic pollution.

"(2) SUBMISSION AS PART OF 305(b)(1) REPORT.—The information required under paragraph (1) shall be included in the report required under section 305(b)(1) of this Act, beginning with the report required under such section by April 1, 1988.

33 USC 1315.

"(3) REPORT OF ADMINISTRATOR.—Not later than 180 days after receipt from the States of the biennial information required under paragraph (1), the Administrator shall submit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the status of water quality in lakes in the United States, including the effectiveness of the methods and procedures described in paragraph (1)(D).

Effective date.
State and local governments.
Grants.

"(4) ELIGIBILITY REQUIREMENT.—Beginning after April 1, 1988, a State must have submitted the information required under paragraph (1) in order to receive grant assistance under this section.".

33 USC 1324.

(b) DEMONSTRATION PROGRAM.—Section 314 is amended by adding at the end thereof the following new subsections:

"(d) DEMONSTRATION PROGRAM.—

"(1) GENERAL REQUIREMENTS.—The Administrator is authorized and directed to establish and conduct at locations throughout the Nation a lake water quality demonstration program. The program shall, at a minimum—

"(A) develop cost effective technologies for the control of pollutants to preserve or enhance lake water quality while optimizing multiple lakes uses;

"(B) control nonpoint sources of pollution which are contributing to the degradation of water quality in lakes;

"(C) evaluate the feasibility of implementing regional consolidated pollution control strategies;

"(D) demonstrate environmentally preferred techniques for the removal and disposal of contaminated lake sediments;

"(E) develop improved methods for the removal of silt, stumps, aquatic growth, and other obstructions which impair the quality of lakes;

"(F) construct and evaluate silt traps and other devices or equipment to prevent or abate the deposit of sediment in lakes; and

"(G) demonstrate the costs and benefits of utilizing dredged material from lakes in the reclamation of despoiled land.

"(2) Geographical requirements.—Demonstration projects authorized by this subsection shall be undertaken to reflect a variety of geographical and environmental conditions. As a priority, the Administrator shall undertake demonstration projects at Lake Houston, Texas; Beaver Lake, Arkansas; Greenwood Lake and Belcher Creek, New Jersey; Deal Lake, New Jersey; Alcyon Lake, New Jersey; Gorton's Pond, Rhode Island; Lake Washington, Rhode Island; Lake Bomoseen, Vermont; Sauk Lake, Minnesota; and Lake Worth, Texas.

Texas.
Arkansas.
New Jersey.
Rhode Island.
Vermont.
Minnesota.

"(3) Reports.—The Administrator shall report annually to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate on work undertaken pursuant to this subsection. Upon completion of the program authorized by this subsection, the Administrator shall submit to such committees a final report on the results of such program, along with recommendations for further measures to improve the water quality of the Nation's lakes.

"(4) Authorization of appropriations.—

"(A) In general.—There is authorized to be appropriated to carry out this subsection not to exceed $40,000,000 for fiscal years beginning after September 30, 1986, to remain available until expended.

"(B) Special authorizations.—

"(i) Amount.—There is authorized to be appropriated to carry out subsection (b) with respect to subsection (a)(1)(D) not to exceed $15,000,000 for fiscal years beginning after September 30, 1986, to remain available until expended.

State and local governments.

"(ii) Distribution of funds.—The Administrator shall provide for an equitable distribution of sums appropriated pursuant to this subparagraph among States carrying out approved methods and procedures. Such distribution shall be based on the relative needs of each such State for the mitigation of the harmful effects on lakes and other surface waters of high acidity that may reasonably be due to acid deposition or acid mine drainage.

State and local governments.

"(iii) GRANTS AS ADDITIONAL ASSISTANCE.—The amount of any grant to a State under this subparagraph shall be in addition to, and not in lieu of, any other Federal financial assistance.".

33 USC 1314.

(c) LAKE RESTORATION GUIDANCE MANUAL.—Section 304(j) is amended to read as follows:

State and local governments.

"(j) LAKE RESTORATION GUIDANCE MANUAL.—The Administrator shall, within 1 year after the date of the enactment of the Water Quality Act of 1987 and biennially thereafter, publish and disseminate a lake restoration guidance manual describing methods, procedures, and processes to guide State and local efforts to improve, restore, and enhance water quality in the Nation's publicly owned lakes.".

33 USC 1324.

(d) CONFORMING AMENDMENTS.—Section 314 is further amended—

(1) in subsection (b) by striking out "this section" the first place it appears and inserting in lieu thereof "subsection (a) of this section";

(2) in subsection (c)(1) by striking out "this section" the first place it appears and inserting in lieu thereof "subsection (b) of this section" and by striking out "this section" the second place it appears and inserting in lieu thereof "subsection (a) of this section"; and

(3) in subsection (c)(2) by striking out "this section" the first place it appears and inserting in lieu thereof "subsection (b) of this section" and by striking out "this section" the second place it appears and inserting in lieu thereof "subsection (a) of this section".

SEC. 316. MANAGEMENT OF NONPOINT SOURCES OF POLLUTION.

(a) IN GENERAL.—Title III is amended by adding at the end the following new section:

33 USC 1329.

"SEC. 319. NONPOINT SOURCE MANAGEMENT PROGRAMS.

"(a) STATE ASSESSMENT REPORTS.—

"(1) CONTENTS.—The Governor of each State shall, after notice and opportunity for public comment, prepare and submit to the Administrator for approval, a report which—

"(A) identifies those navigable waters within the State which, without additional action to control nonpoint sources of pollution, cannot reasonably be expected to attain or maintain applicable water quality standards or the goals and requirements of this Act;

"(B) identifies those categories and subcategories of nonpoint sources or, where appropriate, particular nonpoint sources which add significant pollution to each portion of the navigable waters identified under subparagraph (A) in amounts which contribute to such portion not meeting such water quality standards or such goals and requirements;

"(C) describes the process, including intergovernmental coordination and public participation, for identifying best management practices and measures to control each category and subcategory of nonpoint sources and, where appropriate, particular nonpoint sources identified under subparagraph (B) and to reduce, to the maximum extent practicable, the level of pollution resulting from such category, subcategory, or source; and

"(D) identifies and describes State and local programs for controlling pollution added from nonpoint sources to, and improving the quality of, each such portion of the navigable waters, including but not limited to those programs which are receiving Federal assistance under subsections (h) and (i).

"(2) INFORMATION USED IN PREPARATION.—In developing the report required by this section, the State (A) may rely upon information developed pursuant to sections 208, 303(e), 304(f), 305(b), and 314, and other information as appropriate, and (B) may utilize appropriate elements of the waste treatment management plans developed pursuant to sections 208(b) and 303, to the extent such elements are consistent with and fulfill the requirements of this section.

33 USC 1288, 1313, 1314, 1315, 1324.

"(b) STATE MANAGEMENT PROGRAMS.—

"(1) IN GENERAL.—The Governor of each State, for that State or in combination with adjacent States, shall, after notice and opportunity for public comment, prepare and submit to the Administrator for approval a management program which such State proposes to implement in the first four fiscal years beginning after the date of submission of such management program for controlling pollution added from nonpoint sources to the navigable waters within the State and improving the quality of such waters.

"(2) SPECIFIC CONTENTS.—Each management program proposed for implementation under this subsection shall include each of the following:

"(A) An identification of the best management practices and measures which will be undertaken to reduce pollutant loadings resulting from each category, subcategory, or particular nonpoint source designated under paragraph (1)(B), taking into account the impact of the practice on ground water quality.

"(B) An identification of programs (including, as appropriate, nonregulatory or regulatory programs for enforcement, technical assistance, financial assistance, education, training, technology transfer, and demonstration projects) to achieve implementation of the best management practices by the categories, subcategories, and particular nonpoint sources designated under subparagraph (A).

"(C) A schedule containing annual milestones for (i) utilization of the program implementation methods identified in subparagraph (B), and (ii) implementation of the best management practices identified in subparagraph (A) by the categories, subcategories, or particular nonpoint sources designated under paragraph (1)(B). Such schedule shall provide for utilization of the best management practices at the earliest practicable date.

"(D) A certification of the attorney general of the State or States (or the chief attorney of any State water pollution control agency which has independent legal counsel) that the laws of the State or States, as the case may be, provide adequate authority to implement such management program or, if there is not such adequate authority, a list of such additional authorities as will be necessary to implement such management program. A schedule and commitment by the State or States to seek such additional authorities as expeditiously as practicable.

"(E) Sources of Federal and other assistance and funding (other than assistance provided under subsections (h) and (i)) which will be available in each of such fiscal years for supporting implementation of such practices and measures and the purposes for which such assistance will be used in each of such fiscal years.

"(F) An identification of Federal financial assistance programs and Federal development projects for which the State will review individual assistance applications or development projects for their effect on water quality pursuant to the procedures set forth in Executive Order 12372 as in effect on September 17, 1983, to determine whether such assistance applications or development projects would be consistent with the program prepared under this subsection; for the purposes of this subparagraph, identification shall not be limited to the assistance programs or development projects subject to Executive Order 12372 but may include any programs listed in the most recent Catalog of Federal Domestic Assistance which may have an effect on the purposes and objectives of the State's nonpoint source pollution management program.

3 CFR, 1982 Comp., p. 197.

"(3) UTILIZATION OF LOCAL AND PRIVATE EXPERTS.—In developing and implementing a management program under this subsection, a State shall, to the maximum extent practicable, involve local public and private agencies and organizations which have expertise in control of nonpoint sources of pollution.

"(4) DEVELOPMENT ON WATERSHED BASIS.—A State shall, to the maximum extent practicable, develop and implement a management program under this subsection on a watershed-by-watershed basis within such State.

"(c) ADMINISTRATIVE PROVISIONS.—

Reports.
State and local governments.

"(1) COOPERATION REQUIREMENT.—Any report required by subsection (a) and any management program and report required by subsection (b) shall be developed in cooperation with local, substate regional, and interstate entities which are actively planning for the implementation of nonpoint source pollution controls and have either been certified by the Administrator in accordance with section 208, have worked jointly with the State on water quality management planning under section 205(j), or have been designated by the State legislative body or Governor as water quality management planning agencies for their geographic areas.

33 USC 1288.

33 USC 1285.

"(2) TIME PERIOD FOR SUBMISSION OF REPORTS AND MANAGEMENT PROGRAMS.—Each report and management program shall be submitted to the Administrator during the 18-month period beginning on the date of the enactment of this section.

"(d) APPROVAL OR DISAPPROVAL OF REPORTS AND MANAGEMENT PROGRAMS.—

"(1) DEADLINE.—Subject to paragraph (2), not later than 180 days after the date of submission to the Administrator of any report or management program under this section (other than subsections (h), (i), and (k)), the Administrator shall either approve or disapprove such report or management program, as the case may be. The Administrator may approve a portion of a management program under this subsection. If the Administrator does not disapprove a report, management program, or portion of a management program in such 180-day period, such report, management program, or portion shall be deemed approved for purposes of this section.

"(2) PROCEDURE FOR DISAPPROVAL.—If, after notice and opportunity for public comment and consultation with appropriate Federal and State agencies and other interested persons, the Administrator determines that—

"(A) the proposed management program or any portion thereof does not meet the requirements of subsection (b)(2) of this section or is not likely to satisfy, in whole or in part, the goals and requirements of this Act;

"(B) adequate authority does not exist, or adequate resources are not available to implement such program or portion;

"(C) the schedule for implementing such program or portion is not sufficiently expeditious; or

"(D) the practices and measures proposed in such program or portion are not adequate to reduce the level of pollution in navigable waters in the State resulting from nonpoint sources and to improve the quality of navigable waters in the State;

the Administrator shall within 6 months of the receipt of the proposed program notify the State of any revisions or modifications necessary to obtain approval. The State shall thereupon have an additional 3 months to submit its revised management program and the Administrator shall approve or disapprove such revised program within three months of receipt.

State and local governments.

"(3) FAILURE OF STATE TO SUBMIT REPORT.—If a Governor of a State does not submit the report required by subsection (a) within the period specified by subsection (c)(2), the Administrator shall, within 30 months after the date of the enactment of this section, prepare a report for such State which makes the identifications required by paragraphs (1)(A) and (1)(B) of subsection (a). Upon completion of the requirement of the preceding sentence and after notice and opportunity for comment, the Administrator shall report to Congress on his actions pursuant to this section.

"(e) LOCAL MANAGEMENT PROGRAMS; TECHNICAL ASSISTANCE.—If a State fails to submit a management program under subsection (b) or the Administrator does not approve such a management program, a local public agency or organization which has expertise in, and authority to, control water pollution resulting from nonpoint sources in any area of such State which the Administrator determines is of sufficient geographic size may, with approval of such State, request the Administrator to provide, and the Administrator shall provide, technical assistance to such agency or organization in developing for such area a management program which is described in subsection (b) and can be approved pursuant to subsection (d). After development of such management program, such agency or organization shall submit such management program to the Administrator for approval. If the Administrator approves such management program, such agency or organization shall be eligible to receive financial assistance under subsection (h) for implementation of such management program as if such agency or organization were a State for which a report submitted under subsection (a) and a management program submitted under subsection (b) were approved under this section. Such financial assistance shall be subject to the same terms and conditions as assistance provided to a State under subsection (h).

"(f) TECHNICAL ASSISTANCE FOR STATES.—Upon request of a State, the Administrator may provide technical assistance to such State in developing a management program approved under subsection (b) for those portions of the navigable waters requested by such State.

"(g) INTERSTATE MANAGEMENT CONFERENCE.—

State and local governments.

"(1) CONVENING OF CONFERENCE; NOTIFICATION; PURPOSE.—If any portion of the navigable waters in any State which is implementing a management program approved under this section is not meeting applicable water quality standards or the goals and requirements of this Act as a result, in whole or in part, of pollution from nonpoint sources in another State, such State may petition the Administrator to convene, and the Administrator shall convene, a management conference of all States which contribute significant pollution resulting from nonpoint sources to such portion. If, on the basis of information available, the Administrator determines that a State is not meeting applicable water quality standards or the goals and requirements of this Act as a result, in whole or in part, of significant pollution from nonpoint sources in another State, the Administrator shall notify such States. The Administrator may convene a management conference under this paragraph not later than 180 days after giving such notification, whether or not the State which is not meeting such standards requests such conference. The purpose of such conference shall be to develop an agreement among such States to reduce the level of pollution in such portion resulting from nonpoint sources and to improve the water quality of such portion. Nothing in such agreement shall supersede or abrogate rights to quantities of water which have been established by interstate water compacts, Supreme Court decrees, or State water laws. This subsection shall not apply to any pollution which is subject to the Colorado River Basin Salinity Control Act. The requirement that the Administrator convene a management conference shall not be subject to the provisions of section 505 of this Act.

43 USC 1571 note.

33 USC 1365.

"(2) STATE MANAGEMENT PROGRAM REQUIREMENT.—To the extent that the States reach agreement through such conference, the management programs of the States which are parties to such agreements and which contribute significant pollution to the navigable waters or portions thereof not meeting applicable water quality standards or goals and requirements of this Act will be revised to reflect such agreement. Such management programs shall be consistent with Federal and State law.

State and local governments.

"(h) GRANT PROGRAM.—

"(1) GRANTS FOR IMPLEMENTATION OF MANAGEMENT PROGRAMS.—Upon application of a State for which a report submitted under subsection (a) and a management program submitted under subsection (b) is approved under this section, the Administrator shall make grants, subject to such terms and conditions as the Administrator considers appropriate, under this subsection to such State for the purpose of assisting the State in implementing such management program. Funds reserved pursuant to section 205(j)(5) of this Act may be used to develop and implement such management program.

33 USC 1285.

"(2) APPLICATIONS.—An application for a grant under this subsection in any fiscal year shall be in such form and shall contain such other information as the Administrator may require, including an identification and description of the best management practices and measures which the State proposes to assist, encourage, or require in such year with the Federal assistance to be provided under the grant.

"(3) FEDERAL SHARE.—The Federal share of the cost of each management program implemented with Federal assistance under this subsection in any fiscal year shall not exceed 60 percent of the cost incurred by the State in implementing such management program and shall be made on condition that the non-Federal share is provided from non-Federal sources.

"(4) LIMITATION ON GRANT AMOUNTS.—Notwithstanding any other provision of this subsection, not more than 15 percent of the amount appropriated to carry out this subsection may be used to make grants to any one State, including any grants to any local public agency or organization with authority to control pollution from nonpoint sources in any area of such State.

"(5) PRIORITY FOR EFFECTIVE MECHANISMS.—For each fiscal year beginning after September 30, 1987, the Administrator may give priority in making grants under this subsection, and shall give consideration in determining the Federal share of any such grant, to States which have implemented or are proposing to implement management programs which will—

"(A) control particularly difficult or serious nonpoint source pollution problems, including, but not limited to, problems resulting from mining activities;

Mines and mining.

"(B) implement innovative methods or practices for controlling nonpoint sources of pollution, including regulatory programs where the Administrator deems appropriate;

"(C) control interstate nonpoint source pollution problems; or

"(D) carry out ground water quality protection activities which the Administrator determines are part of a comprehensive nonpoint source pollution control program, including research, planning, ground water assessments, demonstration programs, enforcement, technical assistance, education, and training to protect ground water quality from nonpoint sources of pollution.

Research and development.
Education.

"(6) AVAILABILITY FOR OBLIGATION.—The funds granted to each State pursuant to this subsection in a fiscal year shall remain available for obligation by such State for the fiscal year for which appropriated. The amount of any such funds not obligated by the end of such fiscal year shall be available to the Administrator for granting to other States under this subsection in the next fiscal year.

"(7) LIMITATION ON USE OF FUNDS.—States may use funds from grants made pursuant to this section for financial assistance to persons only to the extent that such assistance is related to the costs of demonstration projects.

"(8) SATISFACTORY PROGRESS.—No grant may be made under this subsection in any fiscal year to a State which in the preceding fiscal year received a grant under this subsection unless the Administrator determines that such State made satisfactory progress in such preceding fiscal year in meeting the schedule specified by such State under subsection (b)(2).

"(9) MAINTENANCE OF EFFORT.—No grant may be made to a State under this subsection in any fiscal year unless such State enters into such agreements with the Administrator as the Administrator may require to ensure that such State will maintain its aggregate expenditures from all other sources for programs for controlling pollution added to the navigable waters in such State from nonpoint sources and improving the quality of such waters at or above the average level of such expenditures in its two fiscal years preceding the date of enactment of this subsection.

Reports.

"(10) REQUEST FOR INFORMATION.—The Administrator may request such information, data, and reports as he considers necessary to make the determination of continuing eligibility for grants under this section.

"(11) REPORTING AND OTHER REQUIREMENTS.—Each State shall report to the Administrator on an annual basis concerning (A) its progress in meeting the schedule of milestones submitted pursuant to subsection (b)(2)(C) of this section, and (B) to the extent that appropriate information is available, reductions in nonpoint source pollutant loading and improvements in water quality for those navigable waters or watersheds within the State which were identified pursuant to subsection (a)(1)(A) of this section resulting from implementation of the management program.

Education.
Science and technology.

"(12) LIMITATION ON ADMINISTRATIVE COSTS.—For purposes of this subsection, administrative costs in the form of salaries, overhead, or indirect costs for services provided and charged against activities and programs carried out with a grant under this subsection shall not exceed in any fiscal year 10 percent of the amount of the grant in such year, except that costs of implementing enforcement and regulatory activities, education, training, technical assistance, demonstration projects, and technology transfer programs shall not be subject to this limitation.

State and local governments.
Research and development.
Education.

"(i) GRANTS FOR PROTECTING GROUNDWATER QUALITY.—

"(1) ELIGIBLE APPLICANTS AND ACTIVITIES.—Upon application of a State for which a report submitted under subsection (a) and a plan submitted under subsection (b) is approved under this section, the Administrator shall make grants under this subsection to such State for the purpose of assisting such State in carrying out groundwater quality protection activities which the Administrator determines will advance the State toward implementation of a comprehensive nonpoint source pollution control program. Such activities shall include, but not be limited to, research, planning, groundwater assessments, demonstration programs, enforcement, technical assistance, education and training to protect the quality of groundwater and to prevent contamination of groundwater from nonpoint sources of pollution.

"(2) APPLICATIONS.—An application for a grant under this subsection shall be in such form and shall contain such information as the Administrator may require.

"(3) FEDERAL SHARE; MAXIMUM AMOUNT.—The Federal share of the cost of assisting a State in carrying out groundwater protection activities in any fiscal year under this subsection shall be 50 percent of the costs incurred by the State in carrying out such activities, except that the maximum amount of Federal assistance which any State may receive under this subsection in any fiscal year shall not exceed $150,000.

"(4) Report.—The Administrator shall include in each report transmitted under subsection (m) a report on the activities and programs implemented under this subsection during the preceding fiscal year.

"(j) Authorization of Appropriations.—There is authorized to be appropriated to carry out subsections (h) and (i) not to exceed $70,000,000 for fiscal year 1988, $100,000,000 per fiscal year for each of fiscal years 1989 and 1990, and $130,000,000 for fiscal year 1991; except that for each of such fiscal years not to exceed $7,500,000 may be made available to carry out subsection (i). Sums appropriated pursuant to this subsection shall remain available until expended.

State and local governments.

3 CFR, 1982 Comp., p. 197. Regulations.

"(k) Consistency of Other Programs and Projects With Management Programs.—The Administrator shall transmit to the Office of Management and Budget and the appropriate Federal departments and agencies a list of those assistance programs and development projects identified by each State under subsection (b)(2)(F) for which individual assistance applications and projects will be reviewed pursuant to the procedures set forth in Executive Order 12372 as in effect on September 17, 1983. Beginning not later than sixty days after receiving notification by the Administrator, each Federal department and agency shall modify existing regulations to allow States to review individual development projects and assistance applications under the identified Federal assistance programs and shall accommodate, according to the requirements and definitions of Executive Order 12372, as in effect on September 17, 1983, the concerns of the State regarding the consistency of such applications or projects with the State nonpoint source pollution management program.

"(l) Collection of Information.—The Administrator shall collect and make available, through publications and other appropriate means, information pertaining to management practices and implementation methods, including, but not limited to, (1) information concerning the costs and relative efficiencies of best management practices for reducing nonpoint source pollution; and (2) available data concerning the relationship between water quality and implementation of various management practices to control nonpoint sources of pollution.

"(m) Reports of Administrator.—

"(1) Annual reports.—Not later than January 1, 1988, and each January 1 thereafter, the Administrator shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate, a report for the preceding fiscal year on the activities and programs implemented under this section and the progress made in reducing pollution in the navigable waters resulting from nonpoint sources and improving the quality of such waters.

"(2) Final report.—Not later than January 1, 1990, the Administrator shall transmit to Congress a final report on the activities carried out under this section. Such report, at a minimum, shall—

"(A) describe the management programs being implemented by the States by types and amount of affected navigable waters, categories and subcategories of nonpoint sources, and types of best management practices being implemented;

"(B) describe the experiences of the States in adhering to schedules and implementing best management practices;

"(C) describe the amount and purpose of grants awarded pursuant to subsections (h) and (i) of this section;

"(D) identify, to the extent that information is available, the progress made in reducing pollutant loads and improving water quality in the navigable waters;

"(E) indicate what further actions need to be taken to attain and maintain in those navigable waters (i) applicable water quality standards, and (ii) the goals and requirements of this Act;

"(F) include recommendations of the Administrator concerning future programs (including enforcement programs) for controlling pollution from nonpoint sources; and

"(G) identify the activities and programs of departments, agencies, and instrumentalities of the United States which are inconsistent with the management programs submitted by the States and recommend modifications so that such activities and programs are consistent with and assist the States in implementation of such management programs.

"(n) Set Aside for Administrative Personnel.—Not less than 5 percent of the funds appropriated pursuant to subsection (j) for any fiscal year shall be available to the Administrator to maintain personnel levels at the Environmental Protection Agency at levels which are adequate to carry out this section in such year.".

33 USC 1251.

(b) Policy for Control of Nonpoint Sources of Pollution.—Section 101(a) is amended by striking out "and" at the end of paragraph (5), by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and", and by adding at the end thereof the following:

"(7) it is the national policy that programs for the control of nonpoint sources of pollution be developed and implemented in an expeditious manner so as to enable the goals of this Act to be met through the control of both point and nonpoint sources of pollution.".

33 USC 1281.

(c) Eligibility of Nonpoint Sources.—The last sentence of section 201(g)(1) is amended by—

(1) striking out "sentence," the first place it appears and inserting in lieu thereof "sentences,";

(2) inserting "(A)" after "October 1, 1984, for"; and

Grants.

Ante, p. 52.

(3) inserting before "except that" the following: "and (B) any purpose for which a grant may be made under sections 319 (h) and (i) of this Act (including any innovative and alternative approaches for the control of nonpoint sources of pollution),".

33 USC 1285.

(d) Reservation of Funds.—Section 205(j) is amended by adding at the end the following new paragraph:

State and local governments.

Ante, p. 52.

"(5) Nonpoint source reservation.—In addition to the sums reserved under paragraph (1), the Administrator shall reserve each fiscal year for each State 1 percent of the sums allotted and available for obligation to such State under this section for each fiscal year beginning on or after October 1, 1986, or $100,000, whichever is greater for the purpose of carrying out section 319 of this Act. Sums so reserved in a State in any fiscal year for which such State does not request the use of such sums, to the extent such sums exceed $100,000, may be used by such State for other purposes under this title.".

(e) Conforming Amendment.—Section 304(k)(1) is amended by inserting "and nonpoint source pollution management programs approved under section 319 of this Act" after "208 of this Act".

33 USC 1314.

Ante, p. 52; 33 USC 1288.

33 USC 1330 note.

SEC. 317. NATIONAL ESTUARY PROGRAM.

(a) Purposes and Policies.—

(1) Findings.—Congress finds and declares that—

(A) the Nation's estuaries are of great importance for fish and wildlife resources and recreation and economic opportunity;

(B) maintaining the health and ecological integrity of these estuaries is in the national interest;

(C) increasing coastal population, development, and other direct and indirect uses of these estuaries threaten their health and ecological integrity;

(D) long-term planning and management will contribute to the continued productivity of these areas, and will maximize their utility to the Nation; and

(E) better coordination among Federal and State programs affecting estuaries will increase the effectiveness and efficiency of the national effort to protect, preserve, and restore these areas.

(2) Purposes.—The purposes of this section are to—

(A) identify nationally significant estuaries that are threatened by pollution, development, or overuse;

(B) promote comprehensive planning for, and conservation and management of, nationally significant estuaries;

(C) encourage the preparation of management plans for estuaries of national significance; and

(D) enhance the coordination of estuarine research.

(b) Management Program.—Title III is amended by adding at the end thereof the following new section:

"SEC. 320. NATIONAL ESTUARY PROGRAM.

33 USC 1330.

"(a) Management Conference.—

"(1) Nomination of estuaries.—The Governor of any State may nominate to the Administrator an estuary lying in whole or in part within the State as an estuary of national significance and request a management conference to develop a comprehensive management plan for the estuary. The nomination shall document the need for the conference, the likelihood of success, and information relating to the factors in paragraph (2).

State and local governments.

"(2) Convening of conference.—

"(A) In general.—In any case where the Administrator determines, on his own initiative or upon nomination of a State under paragraph (1), that the attainment or maintenance of that water quality in an estuary which assures protection of public water supplies and the protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife, and allows recreational activities, in and on the water, requires the control of point and nonpoint sources of pollution to supplement existing controls of pollution in more than one State, the Administrator shall select such estuary and convene a management conference.

Fish and fishing.
Wildlife.

New York.
Connecticut.
Rhode Island.
Massachusetts.
Washington.
New Jersey.
Delaware.
North Carolina.
Florida.
California.
Texas.

"(B) PRIORITY CONSIDERATION.—The Administrator shall give priority consideration under this section to Long Island Sound, New York and Connecticut; Narragansett Bay, Rhode Island; Buzzards Bay, Massachusetts; Puget Sound, Washington; New York-New Jersey Harbor, New York and New Jersey; Delaware Bay, Delaware and New Jersey; Delaware Inland Bays, Delaware; Albemarle Sound, North Carolina; Sarasota Bay, Florida; San Francisco Bay, California; and Galveston Bay, Texas.

"(3) BOUNDARY DISPUTE EXCEPTION.—In any case in which a boundary between two States passes through an estuary and such boundary is disputed and is the subject of an action in any court, the Administrator shall not convene a management conference with respect to such estuary before a final adjudication has been made of such dispute.

"(b) PURPOSES OF CONFERENCE.—The purposes of any management conference convened with respect to an estuary under this subsection shall be to—

"(1) assess trends in water quality, natural resources, and uses of the estuary;

"(2) collect, characterize, and assess data on toxics, nutrients, and natural resources within the estuarine zone to identify the causes of environmental problems;

"(3) develop the relationship between the inplace loads and point and nonpoint loadings of pollutants to the estuarine zone and the potential uses of the zone, water quality, and natural resources;

"(4) develop a comprehensive conservation and management plan that recommends priority corrective actions and compliance schedules addressing point and nonpoint sources of pollution to restore and maintain the chemical, physical, and biological integrity of the estuary, including restoration and maintenance of water quality, a balanced indigenous population of shellfish, fish and wildlife, and recreational activities in the estuary, and assure that the designated uses of the estuary are protected;

"(5) develop plans for the coordinated implementation of the plan by the States as well as Federal and local agencies participating in the conference;

"(6) monitor the effectiveness of actions taken pursuant to the plan; and

"(7) review all Federal financial assistance programs and Federal development projects in accordance with the requirements of Executive Order 12372, as in effect on September 17, 1983, to determine whether such assistance program or project would be consistent with and further the purposes and objectives of the plan prepared under this section.

3 CFR, 1982 Comp., p. 197.

For purposes of paragraph (7), such programs and projects shall not be limited to the assistance programs and development projects subject to Executive Order 12372, but may include any programs listed in the most recent Catalog of Federal Domestic Assistance which may have an effect on the purposes and objectives of the plan developed under this section.

"(c) MEMBERS OF CONFERENCE.—The members of a management conference convened under this section shall include, at a minimum, the Administrator and representatives of—

"(1) each State and foreign nation located in whole or in part in the estuarine zone of the estuary for which the conference is convened;

"(2) international, interstate, or regional agencies or entities having jurisdiction over all or a significant part of the estuary;

"(3) each interested Federal agency, as determined appropriate by the Administrator;

"(4) local governments having jurisdiction over any land or water within the estuarine zone, as determined appropriate by the Administrator; and

"(5) affected industries, public and private educational institutions, and the general public, as determined appropriate by the Administrator.

Conservation.
State and local governments.

"(d) Utilization of Existing Data.—In developing a conservation and management plan under this section, the management conference shall survey and utilize existing reports, data, and studies relating to the estuary that have been developed by or made available to Federal, interstate, State, and local agencies.

"(e) Period of Conference.—A management conference convened under this section shall be convened for a period not to exceed 5 years. Such conference may be extended by the Administrator, and if terminated after the initial period, may be reconvened by the Administrator at any time thereafter, as may be necessary to meet the requirements of this section.

"(f) Approval and Implementation of Plans.—

"(1) Approval.—Not later than 120 days after the completion of a conservation and management plan and after providing for public review and comment, the Administrator shall approve such plan if the plan meets the requirements of this section and the affected Governor or Governors concur.

"(2) Implementation.—Upon approval of a conservation and management plan under this section, such plan shall be implemented. Funds authorized to be appropriated under titles II and VI and section 319 of this Act may be used in accordance with the applicable requirements of this Act to assist States with the implementation of such plan.

33 USC 1281; *ante*, p. 52.

State and local governments.

"(g) Grants.—

"(1) Recipients.—The Administrator is authorized to make grants to State, interstate, and regional water pollution control agencies and entities, State coastal zone management agencies, interstate agencies, other public or nonprofit private agencies, institutions, organizations, and individuals.

"(2) Purposes.—Grants under this subsection shall be made to pay for assisting research, surveys, studies, and modeling and other technical work necessary for the development of a conservation and management plan under this section.

"(3) Federal share.—The amount of grants to any person (including a State, interstate, or regional agency or entity) under this subsection for a fiscal year shall not exceed 75 percent of the costs of such research, survey, studies, and work and shall be made on condition that the non-Federal share of such costs are provided from non-Federal sources.

"(h) Grant Reporting.—Any person (including a State, interstate, or regional agency or entity) that receives a grant under subsection (g) shall report to the Administrator not later than 18 months after receipt of such grant and biennially thereafter on the progress being made under this section.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator not to exceed $12,000,000 per fiscal year for each of fiscal years 1987, 1988, 1989, 1990, and 1991 for—

"(1) expenses related to the administration of management conferences under this section, not to exceed 10 percent of the amount appropriated under this subsection;

"(2) making grants under subsection (g); and

"(3) monitoring the implementation of a conservation and management plan by the management conference or by the Administrator, in any case in which the conference has been terminated.

The Administrator shall provide up to $5,000,000 per fiscal year of the sums authorized to be appropriated under this subsection to the Administrator of the National Oceanic and Atmospheric Administration to carry out subsection (j).

"(j) RESEARCH.—

"(1) PROGRAMS.—In order to determine the need to convene a management conference under this section or at the request of such a management conference, the Administrator shall coordinate and implement, through the National Marine Pollution Program Office and the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration, as appropriate, for one or more estuarine zones—

"(A) a long-term program of trend assessment monitoring measuring variations in pollutant concentrations, marine ecology, and other physical or biological environmental parameters which may affect estuarine zones, to provide the Administrator the capacity to determine the potential and actual effects of alternative management strategies and measures;

"(B) a program of ecosystem assessment assisting in the development of (i) baseline studies which determine the state of estuarine zones and the effects of natural and anthropogenic changes, and (ii) predictive models capable of translating information on specific discharges or general pollutant loadings within estuarine zones into a set of probable effects on such zones;

"(C) a comprehensive water quality sampling program for the continuous monitoring of nutrients, chlorine, acid precipitation dissolved oxygen, and potentially toxic pollutants (including organic chemicals and metals) in estuarine zones, after consultation with interested State, local, interstate, or international agencies and review and analysis of all environmental sampling data presently collected from estuarine zones; and

"(D) a program of research to identify the movements of nutrients, sediments and pollutants through estuarine zones and the impact of nutrients, sediments, and pollutants on water quality, the ecosystem, and designated or potential uses of the estuarine zones.

"(2) REPORTS.—The Administrator, in cooperation with the Administrator of the National Oceanic and Atmospheric Administration, shall submit to the Congress no less often than biennially a comprehensive report on the activities authorized under this subsection including—

"(A) a listing of priority monitoring and research needs;

"(B) an assessment of the state and health of the Nation's estuarine zones, to the extent evaluated under this subsection;

"(C) a discussion of pollution problems and trends in pollutant concentrations with a direct or indirect effect on water quality, the ecosystem, and designated or potential uses of each estuarine zone, to the extent evaluated under this subsection; and

"(D) an evaluation of pollution abatement activities and management measures so far implemented to determine the degree of improvement toward the objectives expressed in subsection (b)(4) of this section.

"(k) DEFINITIONS.—For purposes of this section, the terms 'estuary' and 'estuarine zone' have the meanings such terms have in section 104(n)(4) of this Act, except that the term 'estuarine zone' shall also include associated aquatic ecosystems and those portions of tributaries draining into the estuary up to the historic height of migration of anadromous fish or the historic head of tidal influence, whichever is higher.".

33 USC 1254.

SEC. 318. UNCONSOLIDATED QUATERNARY AQUIFER.

New Jersey.

Notwithstanding any other provision of law, no person may—

(1) locate or authorize the location of a landfill, surface impoundment, waste pile, injection well, or land treatment facility over the Unconsolidated Quaternary Aquifer, or the recharge zone or streamflow source zone of such aquifer, in the Rockaway River Basin, New Jersey (as such aquifer and zones are described in the Federal Register, January 24, 1984, pages 2946-2948); or

49 FR 2946-2948.

(2) place or authorize the placement of solid waste in a landfill, surface impoundment, waste pile, injection well, or land treatment facility over such aquifer or zone.

This section may be enforced under sections 309 (a) and (b) of the Federal Water Pollution Control Act. For purposes of section 309(c) of such Act, a violation of this section shall be considered a violation of section 301 of the Federal Water Pollution Control Act.

33 USC 1319.

33 USC 1311.

TITLE IV—PERMITS AND LICENSES

SEC. 401. STORMWATER RUNOFF FROM OIL, GAS, AND MINING OPERATIONS.

(a) LIMITATION ON PERMIT REQUIREMENT.—Section 402(l) is amended by inserting "(1) AGRICULTURAL RETURN FLOWS.—" before "The Administrator" and by adding at the end thereof the following:

33 USC 1342.

State and local governments.

"(2) STORMWATER RUNOFF FROM OIL, GAS, AND MINING OPERATIONS.—The Administrator shall not require a permit under this section, nor shall the Administrator directly or indirectly require any State to require a permit, for discharges of stormwater runoff from mining operations or oil and gas exploration, production, processing, or treatment operations or transmission facilities, composed entirely of flows which are from conveyances or systems of conveyances (including but not limited to pipes, conduits, ditches, and channels) used for collecting and conveying precipitation runoff and which are not contaminated by contact with, or do not come into contact with, any overburden, raw material, intermediate products, finished product, byproduct, or waste products located on the site of such operations.".

Ante, p. 65.

(b) Conforming Amendments.—Section 402(l) is further amended—

(1) by inserting "Limitation on Permit Requirement.—" after "(l)"; and

(2) by indenting paragraph (1) of such section, as designated by subsection (a) of this section, and aligning such paragraph with paragraph (2) of such section, as added by such subsection (a).

SEC. 402. ADDITIONAL PRETREATMENT OF CONVENTIONAL POLLUTANTS NOT REQUIRED.

Section 402 is amended by adding at the end thereof the following new subsection:

33 USC 1292.
33 USC 1314.
33 USC 1317.
33 USC 1319.
33 USC 1370.

"(m) Additional Pretreatment of Conventional Pollutants Not Required.—To the extent a treatment works (as defined in section 212 of this Act) which is publicly owned is not meeting the requirements of a permit issued under this section for such treatment works as a result of inadequate design or operation of such treatment works, the Administrator, in issuing a permit under this section, shall not require pretreatment by a person introducing conventional pollutants identified pursuant to section 304(a)(4) of this Act into such treatment works other than pretreatment required to assure compliance with pretreatment standards under subsection (b)(8) of this section and section 307(b)(1) of this Act. Nothing in this subsection shall affect the Administrator's authority under sections 307 and 309 of this Act, affect State and local authority under sections 307(b)(4) and 510 of this Act, relieve such treatment works of its obligations to meet requirements established under this Act, or otherwise preclude such works from pursuing whatever feasible options are available to meet its responsibility to comply with its permit under this section.".

SEC. 403. PARTIAL NPDES PROGRAM.

Supra.

(a) Partial Permit Program.—Section 402 is amended by adding at the end the following:

"(n) Partial Permit Program.—

"(1) State submission.—The Governor of a State may submit under subsection (b) of this section a permit program for a portion of the discharges into the navigable waters in such State.

"(2) Minimum coverage.—A partial permit program under this subsection shall cover, at a minimum, administration of a major category of the discharges into the navigable waters of the State or a major component of the permit program required by subsection (b).

"(3) Approval of major category partial permit programs.—The Administrator may approve a partial permit program covering administration of a major category of discharges under this subsection if—

"(A) such program represents a complete permit program and covers all of the discharges under the jurisdiction of a department or agency of the State; and

"(B) the Administrator determines that the partial program represents a significant and identifiable part of the State program required by subsection (b).

"(4) Approval of major component partial permit programs.—The Administrator may approve under this subsection a partial and phased permit program covering administration of a major component (including discharge categories) of a State permit program required by subsection (b) if—

"(A) the Administrator determines that the partial program represents a significant and identifiable part of the State program required by subsection (b); and

"(B) the State submits, and the Administrator approves, a plan for the State to assume administration by phases of the remainder of the State program required by subsection (b) by a specified date not more than 5 years after submission of the partial program under this subsection and agrees to make all reasonable efforts to assume such administration by such date.".

(b) Return of State Permit Program to Administrator.—

(1) In general.—Section 402(c) is amended by adding at the end thereof the following new paragraph: 33 USC 1342.

"(4) Limitations on partial permit program returns and withdrawals.—A State may return to the Administrator administration, and the Administrator may withdraw under paragraph (3) of this subsection approval, of—

"(A) a State partial permit program approved under subsection (n)(3) only if the entire permit program being administered by the State department or agency at the time is returned or withdrawn; and *Ante*, p. 6

"(B) a State partial permit program approved under subsection (n)(4) only if an entire phased component of the permit program being administered by the State at the time is returned or withdrawn.".

(2) Conforming amendment.—Section 402(c)(1) is amended by striking out "as to those navigable waters" and inserting in lieu thereof "as to those discharges".

SEC. 404. ANTI-BACKSLIDING.

(a) General Rule.—Section 402 is amended by adding at the end thereof the following new subsection: *Ante*, p. 66.

"(o) Anti-Backsliding.—

"(1) General prohibition.—In the case of effluent limitations established on the basis of subsection (a)(1)(B) of this section, a permit may not be renewed, reissued, or modified on the basis of effluent guidelines promulgated under section 304(b) subsequent to the original issuance of such permit, to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit. In the case of effluent limitations established on the basis of section 301(b)(1)(C) or section 303 (d) or (e), a permit may not be renewed, reissued, or modified to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit except in compliance with section 303(d)(4). 33 USC 1314. 33 USC 1311. 33 USC 1313.

"(2) Exceptions.—A permit with respect to which paragraph (1) applies may be renewed, reissued, or modified to contain a less stringent effluent limitation applicable to a pollutant if— Pollution.

"(A) material and substantial alterations or additions to the permitted facility occurred after permit issuance which justify the application of a less stringent effluent limitation;

"(B)(i) information is available which was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and which would have justified the application of a less stringent effluent limitation at the time of permit issuance; or

"(ii) the Administrator determines that technical mistakes or mistaken interpretations of law were made in issuing the permit under subsection (a)(1)(B);

"(C) a less stringent effluent limitation is necessary because of events over which the permittee has no control and for which there is no reasonably available remedy;

Ante, pp. 30, 35; 33 USC 1326.

"(D) the permittee has received a permit modification under section 301(c), 301(g), 301(h), 301(i), 301(k), 301(n), or 316(a); or

"(E) the permittee has installed the treatment facilities required to meet the effluent limitations in the previous permit and has properly operated and maintained the facilities but has nevertheless been unable to achieve the previous effluent limitations, in which case the limitations in the reviewed, reissued, or modified permit may reflect the level of pollutant control actually achieved (but shall not be less stringent than required by effluent guidelines in effect at the time of permit renewal, reissuance, or modification).

Subparagraph (B) shall not apply to any revised waste load allocations or any alternative grounds for translating water quality standards into effluent limitations, except where the cumulative effect of such revised allocations results in a decrease in the amount of pollutants discharged into the concerned waters, and such revised allocations are not the result of a discharger eliminating or substantially reducing its discharge of pollutants due to complying with the requirements of this Act or for reasons otherwise unrelated to water quality.

"(3) LIMITATIONS.—In no event may a permit with respect to which paragraph (1) applies be renewed, reissued, or modified to contain an effluent limitation which is less stringent than required by effluent guidelines in effect at the time the permit is renewed, reissued, or modified. In no event may such a permit to discharge into waters be renewed, reissued, or modified to contain a less stringent effluent limitation if the implementation of such limitation would result in a violation of a water quality standard under section 303 applicable to such waters.".

33 USC 1313.

(b) LIMITATIONS ON REVISION OF CERTAIN EFFLUENT LIMITATIONS.—Section 303(d) of the Act is amended by adding at the end thereof the following new paragraph:

"(4) LIMITATIONS ON REVISION OF CERTAIN EFFLUENT LIMITATIONS.—

"(A) STANDARD NOT ATTAINED.—For waters identified under paragraph (1)(A) where the applicable water quality standard has not yet been attained, any effluent limitation based on a total maximum daily load or other waste load allocation established under this section may be revised only if (i) the cumulative effect of all such revised effluent limitations based on such total maximum daily load or waste load allocation will assure the attainment of such water quality standard, or (ii) the designated use which is not being attained is removed in accordance with regulations established under this section.

"(B) STANDARD ATTAINED.—For waters identified under paragraph (1)(A) where the quality of such waters equals or exceeds levels necessary to protect the designated use for such waters or otherwise required by applicable water quality standards, any effluent limitation based on a total maximum daily load or other waste load allocation established under this section, or any water quality standard established under this section, or any other permitting standard may be revised only if such revision is subject to and consistent with the antidegradation policy established under this section.".

33 USC 1375 note. State and local governments.

(c) STUDY.—The Administrator shall study—

(1) the extent to which States have reviewed, revised, and adopted water quality standards in accordance with section 24 of the Municipal Wastewater Treatment Construction Grant Amendments of 1981; and

33 USC 1313a.

(2) the extent to which modifications of permits issued under section 402(a)(1)(B) of the Federal Water Pollution Control Act for the purpose of reflecting any revisions to water quality standards should be encouraged or discouraged.

33 USC 1342.

Reports.

The Administrator shall submit a report on such study, together with recommendations, to Congress not later than 2 years after the date of the enactment of this Act.

(d) CONFORMING AMENDMENT.—Section 402(a)(1) is amended by inserting "(A)" after "either" and by inserting "(B)" after "this Act, or".

SEC. 405. MUNICIPAL AND INDUSTRIAL STORMWATER DISCHARGES.

Section 402 is amended by adding at the end thereof the following new subsection:

State and local governments.

"(p) MUNICIPAL AND INDUSTRIAL STORMWATER DISCHARGES.—

"(1) GENERAL RULE.—Prior to October 1, 1992, the Administrator or the State (in the case of a permit program approved under section 402 of this Act) shall not require a permit under this section for discharges composed entirely of stormwater.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to the following stormwater discharges:

"(A) A discharge with respect to which a permit has been issued under this section before the date of the enactment of this subsection.

"(B) A discharge associated with industrial activity.

"(C) A discharge from a municipal separate storm sewer system serving a population of 250,000 or more.

"(D) A discharge from a municipal separate storm sewer system serving a population of 100,000 or more but less than 250,000.

"(E) A discharge for which the Administrator or the State, as the case may be, determines that the stormwater discharge contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States.

"(3) PERMIT REQUIREMENTS.—

"(A) INDUSTRIAL DISCHARGES.—Permits for discharges associated with industrial activity shall meet all applicable provisions of this section and section 301.

33 USC 1311.

"(B) MUNICIPAL DISCHARGE.—Permits for discharges from municipal storm sewers—

"(i) may be issued on a system- or jurisdiction-wide basis;

"(ii) shall include a requirement to effectively prohibit non-stormwater discharges into the storm sewers; and

"(iii) shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants.

"(4) PERMIT APPLICATION REQUIREMENTS.—

Regulations.

"(A) INDUSTRIAL AND LARGE MUNICIPAL DISCHARGES.—Not later than 2 years after the date of the enactment of this subsection, the Administrator shall establish regulations setting forth the permit application requirements for stormwater discharges described in paragraphs (2)(B) and (2)(C). Applications for permits for such discharges shall be filed no later than 3 years after such date of enactment. Not later than 4 years after such date of enactment, the Administrator or the State, as the case may be, shall issue or deny each such permit. Any such permit shall provide for compliance as expeditiously as practicable, but in no event later than 3 years after the date of issuance of such permit.

Regulations.

"(B) OTHER MUNICIPAL DISCHARGES.—Not later than 4 years after the date of the enactment of this subsection, the Administrator shall establish regulations setting forth the permit application requirements for stormwater discharges described in paragraph (2)(D). Applications for permits for such discharges shall be filed no later than 5 years after such date of enactment. Not later than 6 years after such date of enactment, the Administrator or the State, as the case may be, shall issue or deny each such permit. Any such permit shall provide for compliance as expeditiously as practicable, but in no event later than 3 years after the date of issuance of such permit.

"(5) STUDIES.—The Administrator, in consultation with the States, shall conduct a study for the purposes of—

"(A) identifying those stormwater discharges or classes of stormwater discharges for which permits are not required pursuant to paragraphs (1) and (2) of this subsection;

"(B) determining, to the maximum extent practicable, the nature and extent of pollutants in such discharges; and

"(C) establishing procedures and methods to control stormwater discharges to the extent necessary to mitigate impacts on water quality.

Reports.

Reports.

Not later than October 1, 1988, the Administrator shall submit to Congress a report on the results of the study described in subparagraphs (A) and (B). Not later than October 1, 1989, the Administrator shall submit to Congress a report on the results of the study described in subparagraph (C).

State and local governments.

"(6) REGULATIONS.—Not later than October 1, 1992, the Administrator, in consultation with State and local officials, shall issue regulations (based on the results of the studies conducted under paragraph (5)) which designate stormwater discharges, other than those discharges described in paragraph (2), to be regulated to protect water quality and shall establish a comprehensive program to regulate such designated sources. The program shall, at a minimum, (A) establish priorities, (B) establish requirements for State stormwater management programs, and (C) establish expeditious deadlines. The program may include performance standards, guidelines, guidance, and management practices and treatment requirements, as appropriate.".

SEC. 406. SEWAGE SLUDGE.

(a) Identification and Regulation of Toxic Pollutants.—Section 405(d) is amended— 33 USC 1345.

(1) by inserting "(1) Regulations.—" before "The Administrator, after";

(2) by striking "(1)", "(2)", and "(3)" and inserting in lieu thereof "(A)", "(B)", and "(C)", respectively; and

(3) by adding at the end the following new paragraphs:

"(2) Identification and regulation of toxic pollutants.—

"(A) On basis of available information.—

"(i) Proposed regulations.—Not later than November 30, 1986, the Administrator shall identify those toxic pollutants which, on the basis of available information on their toxicity, persistence, concentration, mobility, or potential for exposure, may be present in sewage sludge in concentrations which may adversely affect public health or the environment, and propose regulations specifying acceptable management practices for sewage sludge containing each such toxic pollutant and establishing numerical limitations for each such pollutant for each use identified under paragraph (1)(A).

"(ii) Final regulations.—Not later than August 31, 1987, and after opportunity for public hearing, the Administrator shall promulgate the regulations required by subparagraph (A)(i).

"(B) Others.—

"(i) Proposed regulations.—Not later than July 31, 1987, the Administrator shall identify those toxic pollutants not identified under subparagraph (A)(i) which may be present in sewage sludge in concentrations which may adversely affect public health or the environment, and propose regulations specifying acceptable management practices for sewage sludge containing each such toxic pollutant and establishing numerical limitations for each pollutant for each such use identified under paragraph (1)(A).

"(ii) Final regulations.—Not later than June 15, 1988, the Administrator shall promulgate the regulations required by subparagraph (B)(i).

"(C) Review.—From time to time, but not less often than every 2 years, the Administrator shall review the regulations promulgated under this paragraph for the purpose of identifying additional toxic pollutants and promulgating regulations for such pollutants consistent with the requirements of this paragraph.

"(D) MINIMUM STANDARDS; COMPLIANCE DATE.—The management practices and numerical criteria established under subparagraphs (A), (B), and (C) shall be adequate to protect public health and the environment from any reasonably anticipated adverse effects of each pollutant. Such regulations shall require compliance as expeditiously as practicable but in no case later than 12 months after their publication, unless such regulations require the construction of new pollution control facilities, in which case the regulations shall require compliance as expeditiously as practicable but in no case later than two years from the date of their publication.

"(3) ALTERNATIVE STANDARDS.—For purposes of this subsection, if, in the judgment of the Administrator, it is not feasible to prescribe or enforce a numerical limitation for a pollutant identified under paragraph (2), the Administrator may instead promulgate a design, equipment, management practice, or operational standard, or combination thereof, which in the Administrator's judgment is adequate to protect public health and the environment from any reasonably anticipated adverse effects of such pollutant. In the event the Administrator promulgates a design or equipment standard under this subsection, the Administrator shall include as part of such standard such requirements as will assure the proper operation and maintenance of any such element of design or equipment.

"(4) CONDITIONS ON PERMITS.—Prior to the promulgation of the regulations required by paragraph (2), the Administrator shall impose conditions in permits issued to publicly owned treatment works under section 402 of this Act or take such other measures as the Administrator deems appropriate to protect public health and the environment from any adverse effects which may occur from toxic pollutants in sewage sludge.

33 USC 1342.

"(5) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section is intended to waive more stringent requirements established by this Act or any other law.".

33 USC 1345.

(b) MANNER OF SLUDGE DISPOSAL.—Section 405(e) is amended to read as follows:

"(e) MANNER OF SLUDGE DISPOSAL.—The determination of the manner of disposal or use of sludge is a local determination, except that it shall be unlawful for any person to dispose of sludge from a publicly owned treatment works or any other treatment works treating domestic sewage for any use for which regulations have been established pursuant to subsection (d) of this section, except in accordance with such regulations.".

(c) IMPLEMENTATION THROUGH PERMITS.—Section 405 is further amended by adding at the end thereof the following:

"(f) IMPLEMENTATION OF REGULATIONS.—

State and local governments.

"(1) THROUGH SECTION 402 PERMITS.—Any permit issued under section 402 of this Act to a publicly owned treatment works or any other treatment works treating domestic sewage shall include requirements for the use and disposal of sludge that implement the regulations established pursuant to subsection (d) of this section, unless such requirements have been included in a permit issued under the appropriate provisions of subtitle C of the Solid Waste Disposal Act, part C of the Safe Drinking

42 USC 6921.

Water Act, the Marine Protection, Research, and Sanctuaries Act of 1972, or the Clean Air Act, or under State permit programs approved by the Administrator, where the Administrator determines that such programs assure compliance with any applicable requirements of this section. Not later than December 15, 1986, the Administrator shall promulgate procedures for approval of State programs pursuant to this paragraph.

42 USC 300h.
33 USC 1401 note; 42 USC 7401 note.

"(2) THROUGH OTHER PERMITS.—In the case of a treatment works described in paragraph (1) that is not subject to section 402 of this Act and to which none of the other above listed permit programs nor approved State permit authority apply, the Administrator may issue a permit to such treatment works solely to impose requirements for the use and disposal of sludge that implement the regulations established pursuant to subsection (d) of this section. The Administrator shall include in the permit appropriate requirements to assure compliance with the regulations established pursuant to subsection (d) of this section. The Administrator shall establish procedures for issuing permits pursuant to this paragraph.

State and local governments.
33 USC 1342.

"(g) STUDIES AND PROJECTS.—

"(1) GRANT PROGRAM; INFORMATION GATHERING.—The Administrator is authorized to conduct or initiate scientific studies, demonstration projects, and public information and education projects which are designed to promote the safe and beneficial management or use of sewage sludge for such purposes as aiding the restoration of abandoned mine sites, conditioning soil for parks and recreation areas, agricultural and horticultural uses, and other beneficial purposes. For the purposes of carrying out this subsection, the Administrator may make grants to State water pollution control agencies, other public or nonprofit agencies, institutions, organizations, and individuals. In cooperation with other Federal departments and agencies, other public and private agencies, institutions, and organizations, the Administrator is authorized to collect and disseminate information pertaining to the safe and beneficial use of sewage sludge.

"(2) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out the scientific studies, demonstration projects, and public information and education projects authorized in this section, there is authorized to be appropriated for fiscal years beginning after September 30, 1986, not to exceed $5,000,000."

(d) ENFORCEMENT.—(1) Section 308(a)(4) is amended by inserting "405," before "and 504".

33 USC 1318.

(2) Section 505(f) is amended by striking out "or" before "(6)" and by inserting before the period "; or (7) a regulation under section 405(d) of this Act,".

33 USC 1365.
Ante, p. 71.

(3) Section 509(b)(1)(E) is amended by striking out "or 306" and inserting in lieu thereof "306, or 405".

33 USC 1369.

(e) REMOVAL CREDITS.—The part of the decision of Natural Resources Defense Council, Inc. v. U.S. Environmental Protection Agency, No. 84-3530 (3d. Cir. 1986), which addresses section 405(d) of the Federal Water Pollution Control Act is stayed until August 31, 1987, with respect to—

33 USC 1345 note.

(1) those publicly owned treatment works the owner or operator of which received authority to revise pretreatment require-

33 USC 1317.

ments under section 307(b)(1) of such Act before the date of the enactment of this section, and

(2) those publicly owned treatment works the owner or operator of which has submitted an application for authority to revise pretreatment requirements under such section 307(b)(1) which application is pending on such date of enactment and is approved before August 31, 1987.

The Administrator shall not authorize any other removal credits under such Act until the Administrator issues the regulations required by paragraph (2)(A)(ii) of section 405(d) of such Act, as amended by subsection (a) of this section.

Ante, p. 71.

(f) CONFORMING AMENDMENTS.—Section 405(d) is further amended—

(1) by inserting "REGULATIONS.—" after "(d)";

(2) by indenting paragraph (1) (as designated by subsection (a)(1) of this section) and aligning such paragraph with paragraph (3), as added by subsection (a)(3); and

(3) in such paragraph (1) by aligning subparagraphs (A), (B), and (C) (as designated by subsection (a)(2) of this section) with subparagraph (C) of paragraph (2), as added by subsection (a)(3) of this section.

33 USC 1342 note.
State and local governments.

SEC. 407. LOG TRANSFER FACILITIES.

(a) AGREEMENT.—The Administrator and Secretary of the Army shall enter into an agreement regarding coordination of permitting for log transfer facilities to designate a lead agency and to process permits required under sections 402 and 404 of the Federal Water Pollution Control Act, where both such sections apply, for discharges associated with the construction and operation of log transfer facilities. The Administrator and Secretary are authorized to act in accordance with the terms of such agreement to assure that, to the maximum extent practicable, duplication, needless paperwork and delay in the issuance of permits, and inequitable enforcement between and among facilities in different States, shall be eliminated.

33 USC 1342, 1344.

(b) APPLICATIONS AND PERMITS BEFORE OCTOBER 22, 1985.—Where both of sections 402 and 404 of the Federal Water Pollution Control Act apply, log transfer facilities which have received a permit under section 404 of such Act before October 22, 1985, shall not be required to submit a new application for a permit under section 402 of such Act. If the Administrator determines that the terms of a permit issued on or before October 22, 1985, under section 404 of such Act satisfies the applicable requirements of sections 301, 302, 306, 307, 308, and 403 of such Act, a separate application for a permit under section 402 of such Act shall not thereafter be required. In any case where the Administrator demonstrates, after an opportunity for a hearing, that the terms of a permit issued on or before October 22, 1985, under section 404 of such Act do not satisfy the applicable requirements of sections 301, 302, 306, 307, 308, and 403 of such Act, modifications to the existing permit under section 404 of such Act to incorporate such applicable requirements shall be issued by the Administrator as an alternative to issuance of a separate new permit under section 402 of such Act.

33 USC 1311, 1312, 1316, 1317, 1318, 1343.

(c) LOG TRANSFER FACILITY DEFINED.—For the purposes of this section, the term "log transfer facility" means a facility which is constructed in whole or in part in waters of the United States and which is utilized for the purpose of transferring commercially harvested logs to or from a vessel or log raft, including the formation of a log raft.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. AUDITS.

Contracts.
State and local governments.
33 USC 1361.

Section 501(d) is amended by inserting at the end the following new sentences: "For the purpose of carrying out audits and examinations with respect to recipients of Federal assistance under this Act, the Administrator is authorized to enter into noncompetitive procurement contracts with independent State audit organizations, consistent with chapter 75 of title 31, United States Code. Such contracts may only be entered into to the extent and in such amounts as may be provided in advance in appropriation Acts.". 31 USC 7501 *et seq.*

SEC. 502. COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.

(a) Defined as a State.—Section 502(3) is amended by inserting "the Commonwealth of the Northern Mariana Islands," after "Samoa,". 33 USC 1362.

(b) Defined as Part of United States.—Section 311(a)(5) is amended by striking out "the Canal Zone," and inserting in lieu thereof "the Commonwealth of the Northern Mariana Islands,". 33 USC 1321.

SEC. 503. AGRICULTURAL STORMWATER DISCHARGES.

Section 502(14) (relating to the definition of point source) is amended by inserting after "does not include" the following: "agricultural stormwater discharges and".

SEC. 504. PROTECTION OF INTERESTS OF UNITED STATES IN CITIZEN SUITS.

Section 505(c) is amended by adding at the end thereof the following new paragraph: 33 USC 1365.

> "(3) Protection of interests of united states.—Whenever any action is brought under this section in a court of the United States, the plaintiff shall serve a copy of the complaint on the Attorney General and the Administrator. No consent judgment shall be entered in an action in which the United States is not a party prior to 45 days following the receipt of a copy of the proposed consent judgment by the Attorney General and the Administrator.".

SEC. 505. JUDICIAL REVIEW AND AWARD OF FEES.

(a) Location; Deadline for Appeal.—Section 509(b)(1) is amended— 33 USC 1369.

> (1) by striking out "transacts such business" and inserting in lieu thereof, "transacts business which is directly affected by such action"; and
>
> (2) by striking out "ninety" and "ninetieth" and inserting in lieu thereof "120" and "120th", respectively.

(b) Venue; Award of Fees.—Section 509(b) is amended by adding at the end thereof the following new paragraphs:

> "(3) Venue.—
>
> "(A) Selection procedure.—If applications for review of the same agency action have been filed under paragraph (1) of this subsection in 2 or more Circuit Courts of Appeals of the United States and the Administrator has received writ-

ten notice of the filing of one or more applications within 30 days or less after receiving written notice of the filing of the first application, then the Administrator shall promptly advise in writing the Administrative Office of the United States Courts that applications have been filed in 2 or more Circuit Courts of Appeals of the United States, and shall identify each court for which he has written notice that such applications have been filed within 30 days or less of receiving written notice of the filing of the first such application. Records. Pursuant to a system of random selection devised for this purpose, the Administrative Office thereupon shall, within 3 business days of receiving such written notice from the Administrator, select the court in which the record shall be filed from among those identified by the Administrator. Upon notification of such selection, the Administrator shall promptly file the record in such court. For the purpose of review of agency action which has previously been remanded to the Administrator, the record shall be filed in the Circuit Court of Appeals of the United States which remanded such action.

Records. "(B) ADMINISTRATIVE PROVISIONS.—Where applications have been filed under paragraph (1) of this subsection in two or more Circuit Courts of Appeals of the United States with respect to the same agency action and the record has been filed in one of such courts pursuant to subparagraph (A), the other courts in which such applications have been filed shall promptly transfer such applications to the Circuit Court of Appeals of the United States in which the record has been filed. Pending selection of a court pursuant to subparagraph (A), any court in which an application has been filed under paragraph (1) of this subsection may postpone the effective date of the agency action until 15 days after the Administrative Office has selected the court in which the record shall be filed.

"(C) TRANSFERS.—Any court in which an application with respect to any agency action has been filed under paragraph (1) of this subsection, including any court selected pursuant to subparagraph (A), may transfer such application to any other Circuit Court of Appeals of the United States for the convenience of the parties or otherwise in the interest of justice.

"(4) AWARD OF FEES.—In any judicial proceeding under this subsection, the court may award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing or substantially prevailing party whenever it determines that such award is appropriate.".

(c) CONFORMING AMENDMENT FOR CITIZEN SUIT ACTIONS.—The 33 USC 1365. first sentence of section 505(d) is amended by inserting "prevailing or substantially prevailing" before "party".

SEC. 506. INDIAN TRIBES.

33 USC 1251 note. Title V is amended by redesignating section 518, and any references thereto, as section 519 and by inserting after section 517 the following new section:

"SEC. 518. INDIAN TRIBES.

33 USC 1377.

"(a) POLICY.—Nothing in this section shall be construed to affect the application of section 101(g) of this Act, and all of the provisions of this section shall be carried out in accordance with the provisions of such section 101(g). Indian tribes shall be treated as States for purposes of such section 101(g).

33 USC 1251.

State and local governments. Waste disposal.

"(b) ASSESSMENT OF SEWAGE TREATMENT NEEDS; REPORT.—The Administrator, in cooperation with the Director of the Indian Health Service, shall assess the need for sewage treatment works to serve Indian tribes, the degree to which such needs will be met through funds allotted to States under section 205 of this Act and priority lists under section 216 of this Act, and any obstacles which prevent such needs from being met. Not later than one year after the date of the enactment of this section, the Administrator shall submit a report to Congress on the assessment under this subsection, along with recommendations specifying (1) how the Administrator intends to provide assistance to Indian tribes to develop waste treatment management plans and to construct treatment works under this Act, and (2) methods by which the participation in and administration of programs under this Act by Indian tribes can be maximized.

33 USC 1285.
33 USC 1296.

State and local governments. Waste disposal.

"(c) RESERVATION OF FUNDS.—The Administrator shall reserve each fiscal year beginning after September 30, 1986, before allotments to the States under section 205(e), one-half of one percent of the sums appropriated under section 207. Sums reserved under this subsection shall be available only for grants for the development of waste treatment management plans and for the construction of sewage treatment works to serve Indian tribes.

33 USC 1287.

State and local governments.

"(d) COOPERATIVE AGREEMENTS.—In order to ensure the consistent implementation of the requirements of this Act, an Indian tribe and the State or States in which the lands of such tribe are located may enter into a cooperative agreement, subject to the review and approval of the Administrator, to jointly plan and administer the requirements of this Act.

Grants.
33 USC 1281.
33 USC 1254, 1256, 1313, 1315, 1318, 1319, 1324; *ante*, p. 52; 33 USC 1341, 1342, 1344.

"(e) TREATMENT AS STATES.—The Administrator is authorized to treat an Indian tribe as a State for purposes of title II and sections 104, 106, 303, 305, 308, 309, 314, 319, 401, 402, and 404 of this Act to the degree necessary to carry out the objectives of this section, but only if—

"(1) the Indian tribe has a governing body carrying out substantial governmental duties and powers;

"(2) the functions to be exercised by the Indian tribe pertain to the management and protection of water resources which are held by an Indian tribe, held by the United States in trust for Indians, held by a member of an Indian tribe if such property interest is subject to a trust restriction on alienation, or otherwise within the borders of an Indian reservation; and

"(3) the Indian tribe is reasonably expected to be capable, in the Administrator's judgment, of carrying out the functions to be exercised in a manner consistent with the terms and purposes of this Act and of all applicable regulations.

Such treatment as a State may include the direct provision of funds reserved under subsection (c) to the governing bodies of Indian tribes, and the determination of priorities by Indian tribes, where not determined by the Administrator in cooperation with the Director of the Indian Health Service. The Administrator, in cooperation with the Director of the Indian Health Service, is authorized to make grants under title II of this Act in an amount not to exceed 100 percent of the cost of a project. Not later than 18 months after the date of the enactment of this section, the Administrator shall, in consultation with Indian tribes, promulgate final regulations which specify how Indian tribes shall be treated as States for purposes of this Act. The Administrator shall, in promulgating such regulations, consult affected States sharing common water bodies and provide a mechanism for the resolution of any unreasonable consequences that may arise as a result of differing water quality standards that may be set by States and Indian tribes located on common bodies of water. Such mechanism shall provide for explicit consideration of relevant factors including, but not limited to, the effects of differing water quality permit requirements on upstream and downstream dischargers, economic impacts, and present and historical uses and quality of the waters subject to such standards. Such mechanism should provide for the avoidance of such unreasonable consequences in a manner consistent with the objective of this Act.

33 USC 1281.
Regulations.

"(f) GRANTS FOR NONPOINT SOURCE PROGRAMS.—The Administrator shall make grants to an Indian tribe under section 319 of this Act as though such tribe was a State. Not more than one-third of one percent of the amount appropriated for any fiscal year under section 319 may be used to make grants under this subsection. In addition to the requirements of section 319, an Indian tribe shall be required to meet the requirements of paragraphs (1), (2), and (3) of subsection (d) of this section in order to receive such a grant.

Ante, p. 52.

"(g) ALASKA NATIVE ORGANIZATIONS.—No provision of this Act shall be construed to—

"(1) grant, enlarge, or diminish, or in any way affect the scope of the governmental authority, if any, of any Alaska Native organization, including any federally-recognized tribe, traditional Alaska Native council, or Native council organized pursuant to the Act of June 18, 1934 (48 Stat. 987), over lands or persons in Alaska;

25 USC 476.

"(2) create or validate any assertion by such organization or any form of governmental authority over lands or persons in Alaska; or

"(3) in any way affect any assertion that Indian country, as defined in section 1151 of title 18, United States Code, exists or does not exist in Alaska.

"(h) DEFINITIONS.—For purposes of this section, the term—

"(1) 'Federal Indian reservation' means all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation; and

"(2) 'Indian tribe' means any Indian tribe, band, group, or community recognized by the Secretary of the Interior and exercising governmental authority over a Federal Indian reservation."

33 USC 1362 note.
33 USC 1251 note.

SEC. 507. DEFINITION OF POINT SOURCE.

For purposes of the Federal Water Pollution Control Act, the term "point source" includes a landfill leachate collection system.

SEC. 508. SPECIAL PROVISIONS REGARDING CERTAIN DUMPING SITES.

33 USC 1414a note.

(a) Finding.—The Congress finds that the New York Bight Apex is no longer a suitable location for the ocean dumping of municipal sludge.

(b) General Rule.—Title I of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.) is further amended by inserting after section 104 the following new section:

33 USC 1414.

"SPECIAL PROVISIONS REGARDING CERTAIN DUMPING SITES

33 USC 1414a.

"Sec. 104A. (a) New York Bight Apex.—(1) For purposes of this subsection:

"(A) The term 'Apex' means the New York Bight Apex consisting of the ocean waters of the Atlantic Ocean westward of 73 degrees 30 minutes west longitude and northward of 40 degrees 10 minutes north latitude.

"(B) The term 'Apex site' means that site within the Apex at which the dumping of municipal sludge occurred before October 1, 1983.

"(C) The term 'eligible authority' means any sewerage authority or other unit of State or local government that on November 2, 1983, was authorized under court order to dump municipal sludge at the Apex site.

"(2) No person may apply for a permit under this title in relation to the dumping of, or the transportation for purposes of dumping, municipal sludge within the Apex unless that person is an eligible authority.

"(3) The Administrator may not issue, or renew, any permit under this title that authorizes the dumping of, or the transportation for purposes of dumping, municipal sludge within the Apex after the earlier of—

"(A) December 15, 1987; or

"(B) the day determined by the Administrator to be the first day on which municipal sludge generated by eligible authorities can reasonably be dumped at a site designated under section 102 other than a site within the Apex.

33 USC 1412.

"(b) Restriction on Use of the 106-Mile Site.—The Administrator may not issue or renew any permit under this title which authorizes any person, other than a person that is an eligible authority within the meaning of subsection (a)(1)(C), to dump, or to transport for the purposes of dumping, municipal sludge within the site designated under section 102(c) by the Administrator and known as the '106-Mile Ocean Waste Dump Site' (as described in 49 F.R. 19005).".

SEC. 509. OCEAN DISCHARGE RESEARCH PROJECTS.

California.

(a) In General.—Notwithstanding any other provision of law, the Administrator is authorized to issue a research permit to the Orange County, California, Sanitation Districts for the discharge of preconditioned municipal sewage sludge into the ocean for the purpose of enabling research to be conducted in assessing and analyzing the effects of disposing of sewage sludge by pipeline into ocean waters—

(1) if the Administrator is satisfied that such local governmental agency is actively pursuing long-term land-based options for the handling of its sludge with special emphasis on remote disposal alternatives set forth in the 1980 LA/OMA sludge

management project and on reuse of sludge or use of recycled sludge; and

(2) if the Administrator determines that there is no likelihood of an unacceptable adverse effect on the environment as a result of issuance of such permit and that such permit would meet the requirements of paragraph (2) of section 301(h) of the Federal Water Pollution Control Act, as amended by this Act, and of the sentences following the first sentence of such section if such permit were being issued under such section.

33 USC 1311.

(b) Permit Terms.—

(1) Period.—The permit for the discharge of sludge shall be for a period of 5 years commencing on the date of such discharge and shall not be extended or renewed.

State and local governments.
Report.

(2) Monitoring.—Such permit shall provide for monitoring (including whole effluent monitoring) of permitted discharges and other discharges into the ocean in the same area and the effects of such discharges (including cumulative effects) in conformance with requirements established by the Administrator, after consultation with appropriate Federal and State agencies, and for the reporting of such monitoring to Congress and the Administrator every 6 months.

(3) Volume of discharge.—Such permit shall provide that the volume of such local agency's sludge disposed of by such experimental pipeline shall be no more than one and one-half times that being disposed of by such remote disposal and alternatives for the reuse of sludge and the use of recycled sludge. In no event shall the agency dispose of more than 50 percent of its sludge by the pipeline.

Fish and fishing.
Wildlife.

(4) Termination.—The permit shall provide for termination of the permit if the Administrator determines that the disposal of sewage sludge is resulting in an unacceptable adverse impact on fish, shellfish, and wildlife. The Administrator may terminate a permit issued under this section if the Administrator determines that there has been a decline in ambient water quality of the receiving waters during the period of the permit even if a direct cause and effect relationship cannot be shown. If the effluent from a source with a permit issued under this section is contributing to a decline in ambient water quality of the receiving waters, the Administrator shall terminate such permit.

(c) Limitation on Precedent.—The facts and circumstances described in subsection (a) present a unique situation which will not establish a precedent for the relaxation of the requirements of the Federal Water Pollution Control Act applicable to similarly situated discharges.

33 USC 1251 note.

(d) Report.—Such districts shall report the results of the program and an analysis of such program to Congress under this section not later than four and one-half years after issuance of the permit.

Mexico.

SEC. 510. SAN DIEGO, CALIFORNIA.

(a) Purpose.—The purpose of this section is to protect the economy, public health, environment, surface water and public beaches, and water quality of the city of San Diego, California, and surrounding areas, which are endangered and are being polluted by raw sewage emanating from the city of Tijuana, Mexico.

(b) Construction Grants.—Upon approval of the necessary plans and specifications, the Administrator is authorized to make grants to the Secretary of State, acting through the American Section of the International Boundary and Water Commission (hereinafter in this section referred to as the "Commission"), or any other Federal agency or any other appropriate commission or entity designated by the President. Such grants shall be for construction of a project consisting of—

(1) defensive treatment works to protect the residents of the city of San Diego, California, and surrounding areas from pollution resulting from any inadequacies or breakdowns in wastewater treatment works and systems in Mexico; and

(2) treatment works in the city of San Diego, California, to provide primary or more advanced treatment of municipal sewage and industrial waste from Mexico, including the city of Tijuana, Mexico.

Pollution.

(c) LIMITATION ON GRANTS.—Notwithstanding subsection (b), the Administrator may make grants for construction of treatment works described in subsection (b)(2) only if, after public notice and comment, the Administrator determines that treatment works in Mexico, in conjunction with any defensive treatment works constructed under this or any other Act, are not sufficient to protect the residents of the city of San Diego, California, and surrounding areas from water pollution originating in Mexico.

(d) OPERATION AND MAINTENANCE.—The Commission or such other agency, commission, or entity as may be designated under subsection (b) is authorized to operate and maintain any treatment works constructed under subsection (b) in order to accomplish the purposes of this section.

(e) APPROVAL OF PLANS.—Any treatment works for which a grant is made under this section shall be constructed in accordance with plans developed by the Commission or such other agency, commission, or entity as may be designated under subsection (b), in consultation with the city of San Diego, and approved by the Administrator to meet the construction standards which would be applicable if such treatment works were being constructed under title II of the Federal Water Pollution Control Act.

33 USC 1281.

(f) FEDERAL SHARE.—Construction of the treatment works under subsection (b) shall be at full Federal expense less any costs paid by the State of California and less any costs paid by the Government of Mexico as a result of agreements negotiated with the United States.

Pollution.
33 USC 1311.

(g) OCEAN OUTFALL PERMIT.—Notwithstanding section 301(j) of the Federal Water Pollution Control Act, upon application of the city of San Diego, California, the Administrator may issue a permit under section 301(h) of such Act which modifies the requirements of section 301(b)(1)(B) of such Act to permit the discharge of pollutants for any ocean outfall constructed with Federal assistance under this section if the Administrator finds that issuing such permit is in the best interests of achieving the goals and requirements of such Act. The Administrator may waive the requirements of section 301(h)(5) of such Act with respect to the issuance of such permit if the Administrator finds that such waiver is in the best interests of achieving the goals and requirements of such Act.

(h) TREATMENT OF SAN DIEGO SEWAGE.—If any treatment works constructed pursuant to this section becomes no longer necessary to provide protection from pollution originating in Mexico, the city of San Diego, California, may use such treatment works to treat municipal and individual waste originating in the city of San Diego and surrounding areas if the city of San Diego enters into a binding agreement with the Administrator to pay to the United States 45 percent of the costs incurred in the construction of such treatment works.

(i) DEFINITIONS.—For purposes of this section, the terms "construction" and "treatment works" have the meanings such terms have under section 212 of the Federal Water Pollution Control Act. 33 USC 1292.

Grants. (j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal years beginning after September 30, 1986, such sums as may be necessary to the Administrator to make grants under this section and such sums as may be necessary to the Commission or such other agency, commission, or entity as the President may designate under subsection (b), to carry out this section.

SEC. 511. LIMITATION ON DISCHARGE OF RAW SEWAGE BY NEW YORK CITY.

(a) IN GENERAL.—

(1) NORTH RIVER PLANT.—If the wastewater treatment plant identified in the consent decree as the North River plant has not achieved advanced preliminary treatment as required under the terms of the consent decree by August 1, 1986, the city of New York shall not discharge raw sewage from the drainage area of such plant (as defined in the consent decree) into navigable waters after such date in an amount which is greater for any 30-day period than an amount equal to 30 times the average daily amount of raw sewage discharged from such drainage area during the 12-month period ending on the earlier of the date on which such plant becomes operational or March 15, 1986 (as determined by the Administrator), except as provided in subsection (b).

(2) RED HOOK PLANT.—If the wastewater treatment plant identified in the consent decree as the Red Hook plant has not achieved advanced preliminary treatment as required under the terms of the consent decree by August 1, 1987, the city of New York shall not discharge raw sewage from the drainage area of such plant (as defined in the consent decree) into navigable waters after such date in an amount which is greater for any 30-day period than an amount equal to 30 times the average daily amount of raw sewage discharged from such drainage area during the 12-month period ending on the earlier of the date on which such plant becomes operational or March 15, 1987 (as determined by the Administrator), except as provided in subsection (b).

(b) WAIVERS.—

(1) INTERRUPTION OF PLANT OPERATION.—In the event of any significant interruption in the operation of the North River plant or the Red Hook plant caused by an event described in subparagraph (A), (B), or (C) of paragraph (5) occurring after the applicable deadline established under subsection (a), the Administrator shall waive the limitation of subsection (a) with respect to such plant, but only to such extent and for such limited period of time as may be reasonably necessary for the city of New York to resume operation of such plant.

(2) INCREASED PRECIPITATION.—In the event that the volume of precipitation occurring after the applicable deadline established under subsection (a) causes the discharge of raw sewage to exceed the limitation under subsection (a), the Administrator

shall waive the limitation of subsection (a) with respect to either or both such plants, but only to such extent and for such limited period of time as the Administrator determines to be necessary to take into account the increased discharge caused by such volume of precipitation.

(3) VARIATIONS IN CERTAIN NORTH RIVER DRAINAGE AREA DISCHARGES.—In the event that an increase in discharges from the North River drainage area constituting a violation of subsection (a)(1) is due to a random or seasonal variation, and that any sewer hookup occurring, or permit for a sewer hookup granted, after July 31, 1986, is not responsible for such violation, the Administrator shall waive the limitation of subsection (a)(1), but only to such extent and for such limited period of time as the Administrator determines to be reasonably necessary to take into account such random or seasonal variation.

(4) VARIATIONS IN CERTAIN RED HOOK DRAINAGE AREA DISCHARGES.—In the event that an increase in discharges from the Red Hook drainage area constituting a violation of subsection (a)(2) is due to a random or seasonal variation, and that any sewer hookup occurring, or permit for a sewer hookup granted, after July 31, 1987, is not responsible for such violation, the Administrator shall waive the limitation of subsection (a)(2), but only to such extent and for such limited period of time as the Administrator determines to be reasonably necessary to take into account such random or seasonal variation.

(5) CIRCUMSTANCES BEYOND CITY'S CONTROL.—The Administrator shall extend either deadline under paragraph (1) or (2) of subsection (a) to such extent and for such limited period of time as may be reasonably required to take into account any—

(A) act of war,

(B) unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight, or

(C) other circumstances beyond the control of the city of New York, except such circumstances shall not include (i) the unavailability of Federal funds under section 201 of the Federal Water Pollution Control Act, (ii) the unavailability of funds from the city of New York or the State of New York, or (iii) a policy decision made by the city of New York or the State of New York to delay the achievement of advanced preliminary treatment at the North River plant or Red Hook plant beyond the applicable deadline set forth in subsection (a).

33 USC 1281.

(c) PENALTIES.—Except as otherwise provided in subsection (b), any violation of subsection (a) shall be considered to be a violation of section 301 of the Federal Water Pollution Control Act, and all provisions of such Act relating to violations of such section 301 shall apply.

33 USC 1311.

(d) CONSENT DECREE DEFINED.—For purposes of this section, the term "consent decree" means the consent decree entered into by the Environmental Protection Agency, the city of New York, and the State of New York, on December 30, 1982, relating to construction and operation of the North River and Red Hook wastewater treatment plants.

(e) COOPERATION.—The Administrator shall work with the city of New York to eliminate the discharge of raw sewage by such city at the earliest practicable date.

(f) SAVINGS CLAUSE.—Nothing in this section shall be construed as modifying the terms of the consent decree.

(g) SENSE OF CONGRESS.—It is the sense of Congress that the Administrator should not agree to any further modification of the consent decree with respect to the schedule for achieving advanced preliminary treatment.

(h) TERMINATION DATES.—

(1) NORTH RIVER PLANT.—The provisions of this section shall remain in effect with respect to the North River drainage area until such time as the North River plant has achieved advanced preliminary treatment (as defined in the consent decree) for a period of six consecutive months.

(2) RED HOOK PLANT.—The provisions of this section shall remain in effect with respect to the Red Hook drainage area until such time as the Red Hook plant has achieved advanced preliminary treatment (as defined in the consent decree) for a period of six consecutive months.

(i) MONITORING ACTIVITIES.—The Administrator shall promptly establish and carry out a program within available funds to implement the monitoring activities which may be required under subsection (a).

(j) ESTABLISHMENT OF METHODOLOGIES.—The Administrator shall establish the methodologies, data base, and any other information required for making determinations under subsection (b)—

(1) for the North River drainage area (as defined in the consent decree) by July 31, 1986, unless the requirements of subsection (h)(1) have been satisfied, and

(2) for the Red Hook drainage area (as defined by the consent decree) by July 31, 1987, unless the requirements of subsection (h)(2) have been satisfied.

(k) VIOLATIONS.—In carrying out this section, if the Administrator finds that a violation of subsection (a) has occurred, the Administrator shall also determine, within 30 days after such finding, whether a provision of subsection (b) applies. If the Administrator requires information from the city of New York in order to determine whether a provision of subsection (b) applies, the Administrator shall request such information. If the city of New York does not supply the information requested by the Administrator, the Administrator shall determine that subsection (b) does not apply. The city of New York shall be responsible only for such expenses as are necessary to provide such requested information. Enforcement action pursuant to subsection (c) shall be commenced at the end of such 30 days unless a provision of subsection (b) applies.

SEC. 512. OAKWOOD BEACH AND RED HOOK PROJECTS, NEW YORK.

33 USC 1251 note.

(a) RELOCATION OF NATURAL GAS FACILITIES.—Notwithstanding any provision of the Federal Water Pollution Control Act, the Administrator shall pay, to the extent provided in appropriation Acts, in the same proportion as the Federal share of other project costs, all expenses for the relocation of facilities for the distribution of natural gas with respect to the entire wastewater treatment works known as the Oakwood Beach (EPA Grant Numbered 360392) and Red Hook (EPA Grant Numbered 360394) projects, New York.

(b) **Authorization of Appropriations.**—There is authorized to be appropriated for fiscal years beginning after September 30, 1986, not to exceed $7,000,000 to carry out this section.

SEC. 513. BOSTON HARBOR AND ADJACENT WATERS.

(a) **Grants.**—The Administrator shall make grants to the Massachusetts Water Resource Authority for purposes of—

(1) assessing the principal factors having an adverse effect on the environmental quality of Boston Harbor and its adjacent waters;

(2) developing and implementing a management program to improve the water quality of such Harbor and waters; and

(3) constructing necessary waste water treatment works for providing secondary treatment for the areas served by such authority.

(b) **Federal Share.**—The Federal share of projects described in subsection (a) shall not exceed 75 percent of the cost of construction thereof.

(c) **Emergency Improvements.**—The Administrator is authorized and directed to make grants to the Massachusetts Water Resource Authority for a project to undertake emergency improvements at the Deer Island Waste Water Treatment Plant in Boston, Massachusetts. The Federal share of such project shall not exceed 75 percent of the cost of carrying out such improvements.

(d) **Authorization of Appropriations.**—There is authorized to be appropriated $100,000,000 to carry out this section for fiscal years beginning after September 30, 1986, to remain available until expended. Such sums shall be in addition to and not in lieu of any other amounts authorized to be appropriated under title II of the Federal Water Pollution Control Act. 33 USC 1281.

SEC. 514. WASTEWATER RECLAMATION DEMONSTRATION.

(a) **Authority to Make Grants.**—The Administrator is authorized to make a grant to the San Diego Water Reclamation Agency, California, to demonstrate and field test for public use innovative processes which advance the technology of wastewater reclamation and which promote the use of reclaimed wastewater. California.

(b) **Federal Share.**—The Federal share of grants made under this section shall be 85 percent of the costs of conducting such demonstration and field test.

(c) **Authorization of Appropriations.**—There is authorized to be appropriated not to exceed $2,000,000 to carry out this section for fiscal years beginning after September 30, 1986.

SEC. 515. DES MOINES, IOWA.

(a) **Grant.**—The Administrator is authorized to make a grant to the city of Des Moines, Iowa, for construction of the Central Sewage Treatment Plant component of the Des Moines, Iowa, metropolitan area project. The Federal share of such project shall be 75 percent of the cost of construction.

(b) **Authorization of Appropriations.**—There is authorized to be appropriated to carry out this section not to exceed $50,000,000 for fiscal years beginning after September 30, 1986. Such sums shall be in addition to and not in lieu of any other amounts authorized to be appropriated under title II of the Federal Water Pollution Control Act.

33 USC 1375 note.
Pollution.

33 USC 1251 note.

SEC. 516. STUDY OF DE MINIMIS DISCHARGES.

(a) STUDY.—The Administrator shall conduct a study of discharges of pollutants into the navigable waters and their regulation under the Federal Water Pollution Control Act to determine whether or not there are discharges of pollutants into such waters in amounts which, in terms of volume, concentration, and type of pollutant, are not significant and to determine the most effective and appropriate methods of regulating any such discharges.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall submit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of such study along with recommendations and findings concerning the most effective and appropriate methods of regulating any discharges of pollutants into the navigable waters in amounts which the Administrator determines under such study to be not significant.

33 USC 1375 note.

SEC. 517. STUDY OF EFFECTIVENESS OF INNOVATIVE AND ALTERNATIVE PROCESSES AND TECHNIQUES.

33 USC 1281.

Ante, p. 20.

(a) EFFECTIVENESS STUDY.—The Administrator shall study the effectiveness on waste treatment of innovative and alternative wastewater treatment processes and techniques referred to in section 201(g)(5) of the Federal Water Pollution Control Act which have been utilized in treatment works constructed under such Act. In conducting such study, the Administrator shall compile information, by State, on the types of such processes and techniques utilized, on the number of facilities constructed with such processes and techniques, and a description of such processes and techniques which have not performed to design standards. The Administrator shall also determine which States have not obligated the full amount set aside under section 205(i) of such Act for such processes and techniques and the reasons for each such State's failure to make such obligations.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Administrator shall submit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of such study, along with recommendations for providing more effective incentives for innovative and alternative wastewater treatment processes and techniques.

33 USC 1375 note.
Pollution.

33 USC 1314.

SEC. 518. STUDY OF TESTING PROCEDURES.

(a) STUDY.—The Administrator shall study the testing procedures for analysis of pollutants established under section 304(h) of the Federal Water Pollution Control Act. Such study shall include, but not be limited to, an analysis of the adequacy and standardization of such procedures. In conducting the analysis of the standardization of such procedures, the Administrator shall consider the extent to which such procedures are consistent with comparable procedures established under other Federal laws.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall submit a report on the results of the study conducted under this subsection, together with recommendations for modifying the test procedures referred to in subsection (a) to improve their effectiveness, to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate.

SEC. 519. STUDY OF PRETREATMENT OF TOXIC POLLUTANTS.

33 USC 1375 note.

(a) STUDY.—The Administrator shall study—

(1) the adequacy of data on environmental impacts of toxic industrial pollutants discharged from publicly owned treatment works;

(2) the extent to which secondary treatment at publicly owned treatment works removes toxic pollutants;

(3) the capability of publicly owned treatment works to revise pretreatment requirements under section 307(b)(1) of the Federal Water Pollution Control Act; 33 USC 1317.

(4) possible alternative regulatory strategies for protecting the operations of publicly owned treatment works from industrial discharges, and shall evaluate the extent to which each such strategy identified may be expected to achieve the goals of this Act;

(5) for each such alternative regulatory strategy, the extent to which removal of toxic pollutants by publicly owned treatment works results in contamination of sewage sludge and the extent to which pretreatment requirements may prevent such contamination or improve the ability of publicly owned treatment works to comply with sewage sludge criteria developed under section 405 of the Federal Water Pollution Control Act; and 33 USC 1345.

State and local governments.

(6) the adequacy of Federal, State, and local resources to establish, implement, and enforce multiple pretreatment limits for toxic pollutants for each such alternative strategy.

(b) REPORT.—Not later than 4 years after the date of the enactment of this Act, the Administrator shall submit a report on the results of such study along with recommendations for improving the effectiveness of pretreatment requirements to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate.

SEC. 520. STUDIES OF WATER POLLUTION PROBLEMS IN AQUIFERS.

33 USC 1375 note.
State and local governments.

(a) STUDIES.—The Administrator, in conjunction with State and local agencies and after providing an opportunity for full public participation, shall conduct studies for the purpose of identifying existing and potential point and nonpoint sources of pollution, and of identifying measures and practices necessary to control such sources of pollution, in the following groundwater systems and aquifers:

(1) the groundwater system of the Upper Santa Cruz Basin and the Avra-Altar Basin of Pima, Pinal, and Santa Cruz Counties, Arizona; Arizona.

(2) the Spokane-Rathdrum Valley Aquifer, Washington and Idaho; Washington. Idaho.

(3) the Nassau and Suffolk Counties Aquifer, New York; New York.

(4) the Whidbey Island Aquifer, Washington;

(5) the Unconsolidated Quaternary Aquifer, Rockaway River area, New Jersey; New Jersey.

(6) contaminated ground water under Litchfield, Hartford, Fairfield, Tolland, and New Haven counties, Connecticut; and Connecticut.

(7) the Sparta Aquifer, Arkansas. Arkansas.

(b) Reports.—Not later than 2 years after the date of the enactment of this Act, the Administrator shall submit to Congress a report on the studies conducted under this section.

(c) Authorization of Appropriations.—There is authorized to be appropriated $7,000,000 for fiscal years beginning after September 30, 1986, to carry out this section.

42 USC 1962d-20 note.
Fish and fishing.
Environmental protection.

SEC. 521. GREAT LAKES CONSUMPTIVE USE STUDY.

(a) Study of Consumptive Uses.—In recognition of the serious impacts on the Great Lakes environment that may occur as a result of increased consumption of Great Lakes water, including loss of wetlands and reduction of fish spawning and habitat areas, as well as serious economic losses to vital Great Lakes industries, and in recognition of the national goal to provide environmental protection and preservation of our natural resources while allowing for continued economic growth, the Secretary of the Army in cooperation with the Administrator, other interested departments, agencies, and instrumentalities of the United States, and the eight Great Lakes States, is authorized to conduct a study of the effects of Great Lakes water consumption on economic growth and environmental quality in the Great Lakes region and of control measures that can be implemented to reduce the quantity of water consumed.

(b) Matters Included.—The study authorized by this section shall at a minimum include the following:

(1) a review of the methodologies used to forecast Great Lakes consumptive uses, including an analysis of the sensitivity of key variables affecting such uses;

33 USC 1251 note.

(2) an analysis of the effect that enforcement of provisions of the Federal Water Pollution Control Act relating to thermal discharges has had on consumption of Great Lakes water;

(3) an analysis of the effect of laws, regulations, and national policy objectives on consumptive uses of Great Lakes water used in manufacturing;

(4) an analysis of the associated environmental impacts and of the economic effects on industry and other interests in the Great Lakes region associated with individual consumptive use control strategies; and

(5) a summary discussion containing recommendations for methods of controlling consumptive uses which methods maximize benefits to the Great Lakes ecosystem and also provide for continued full economic growth for consuming industries as well as other industries which depend on the use of Great Lakes water.

(c) Great Lakes States Defined.—For purposes of this section, the term "Great Lakes States" means Minnesota, Wisconsin, Illinois, Ohio, Michigan, Indiana, Pennsylvania, and New York.

(d) Authorization of Appropriations.—There is authorized to be appropriated for fiscal years beginning after September 30, 1986, $750,000 to carry out this section. Sums appropriated under this section shall remain available until expended.

33 USC 1375 note.

SEC. 522. SULFIDE CORROSION STUDY.

(a) Study.—The Administrator shall conduct a study of the corrosive effects of sulfides in collection and treatment systems, the extent to which the uniform imposition of categorical pretreatment standards will exacerbate such effects, and the range of available options to deal with such effects.

(b) **Consultation.**—The study required by this section shall be conducted in consultation with the Los Angeles City and County sanitation agencies. California.

(c) **Report.**—Not later than 1 year after the date of the enactment of this Act, the Administrator shall submit a report on the results of the study, together with recommendations for measures to reduce the corrosion of treatment works, to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(d) **Authorization of Appropriations.**—There is authorized to be appropriated $1,000,000 to carry out this section for fiscal years beginning after September 30, 1986.

SEC. 523. STUDY OF RAINFALL INDUCED INFILTRATION INTO SEWER SYSTEMS.

33 USC 1375 note.

(a) **Study.**—The Administrator shall study problems associated with rainfall induced infiltration into wastewater treatment sewer systems. As part of such study, the Administrator shall study appropriate methods of regulating rainfall induced infiltration into the sewer system of the East Bay Municipal Utility District, California. California.

(b) **Report.**—Not later than one year after the date of the enactment of this Act, the Administrator shall submit to Congress a report on the results of such study, along with recommendations on reasonable methods to reduce such infiltration.

SEC. 524. DAM WATER QUALITY STUDY.

33 USC 1375 note.
State and local governments.

The Administrator, in cooperation with interested States and Federal agencies, shall study and monitor the effects on the quality of navigable waters attributable to the impoundment of water by dams. The results of such study shall be submitted to Congress not later than December 31, 1987.

SEC. 525. STUDY OF POLLUTION IN LAKE PEND OREILLE, IDAHO.

33 USC 1375 note.
Montana.
Washington.

The Administrator shall conduct a comprehensive study of the sources of pollution in Lake Pend Oreille, Idaho, and the Clark Fork River and its tributaries, Idaho, Montana, and Washington, for the purpose of identifying the sources of such pollution. In conducting such study, the Administrator shall consider existing studies, surveys, and test results concerning such pollution. The Administrator shall report to Congress the findings and recommendations concerning the study conducted under this section. Reports.

Jim Wright
Speaker of the House of Representatives.

John C. Stennis
President of the Senate pro tempore.

IN THE HOUSE OF REPRESENTATIVES, U.S.,

February 3, 1987.

The House of Representatives having proceeded to reconsider the bill (H.R. 1) entitled "An Act to amend the Federal Water Pollution Control Act to provide for the renewal of the quality of the Nation's waters, and for other purposes", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

Donnald K. Anderson
Clerk.

I certify that this Act originated in the House of Representatives.

Donnald K. Anderson
Clerk.

IN THE SENATE OF THE UNITED STATES,

February 4, 1987.

The Senate having proceeded to reconsider the bill (H.R. 1) entitled "An Act to amend the Federal Water Pollution Control Act to provide for the renewal of the quality of the Nation's waters, and for other purposes", returned by the President of the United States with his objections, to the House of Representatives in which it originated, and passed by the House of Representatives on reconsideration of the same, it was

Resolved, That the said bill pass, two-thirds of the Senators present having voted in the affirmative.

Attest:

Walter J. Stewart
Secretary.

LEGISLATIVE HISTORY—H.R. 1 (S. 1) (S. 76):

CONGRESSIONAL RECORD, Vol. 133 (1987):
  Jan. 8, considered and passed House.
  Jan. 14, 16, 20, 21, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 23 (1987):
  Jan. 30, Presidential veto messages.
CONGRESSIONAL RECORD, Vol. 133 (1987):
  Feb. 3, House overrode veto.
  Feb. 4, Senate overrode veto.

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SENATE DEBATE ON OVERRIDING VETO OF H.R. 1

February 4, 1987
(Congressional Record, vol. 133, daily ed., S1691-S1708)

WATER QUALITY ACT OF 1987—VETO

The PRESIDING OFFICER. Under the previous order, the hour of 2 p.m. having arrived, the Senate will now proceed to the consideration of the President's veto message on H.R. 1, which the clerk will report.

The bill clerk read as follows:

Veto message on H.R. 1, an Act to amend the Federal Water Pollution Control Act and to provide for renewal of the quality of the Nation's waters, and for other purposes.

The message from the President is as follows:

To the House of Representatives:

I am returning herewith without my approval H.R. 1, the "Water Quality Act of 1987." Because all regulatory, research, enforcement, and permit issuance activities are continued under permanent law and current appropriations—including grants to finance the construction of sewage treatment plants—I emphasize that my veto will have no impact whatsoever on the immediate status of any water quality programs.

The cleanup of our Nation's rivers, lakes, and estuaries is, and has been for the past 15 years, a national priority of the highest order. This Administration remains committed to the objectives of the Clean Water Act and to continuing the outstanding progress we have made in reducing water pollution. But the issue facing me today does not concern the ensuring of clean water for future generations. The real issue is the Federal deficit—and the pork-barrel and spending boondoggles that increase it.

The Clean Water Act construction grant program, which this legislation funds, is a classic example of how well-intentioned, short-term programs balloon into open-ended, long-term commitments costing billions of dollars more than anticipated or needed. Since 1972, the Federal government has helped fund the construction of local sewage treatment facilities. This is a matter that historically and properly was the responsibility of State and local governments. The Federal government's first spending in this area was intended to be a short-term effort to assist in financing the backlog of facilities needed at the time to meet the original Clean Water Act requirements. When the program started, the cost of that commitment to the Federal taxpayer was estimated at $18 billion. Yet to date, $47 billion has been appropriated. H.R. 1 proposes to put still another $18 billion of taxpayers' money into this program. Despite all this money, only 67 percent of all municipalities have actually completed the construction needed to comply with the Clean Water Act pollution limits. On the other hand, non-municipal treatment systems, which have received no Federal funding, have completed 94 percent of the construction needed for compliance with Federal pollution standards. I want a bill that spends only what we need to spend and no more—not a blank check. For these reasons I must disapprove H.R. 1, a bill virtually identical to S. 1128, which I disapproved last November.

Money is not the only problem with this legislation. In my November 6th memorandum of disapproval, I noted that S. 1128 was unacceptable not only because it provided excessive funding for the sewage treatment grant program, but also because it reversed important reforms enacted in 1981, for example, increasing the Federal share of costs on some projects that municipalities were going to build anyway. Furthermore, both S. 1128 and this bill would also establish a federally controlled and directed program to control what is called "non-point" source pollution. This new program threatens to become the ultimate whip hand for Federal regulators. For example, in participating States, if farmers have more run-off from their land than the Environmental Protection Agency decides is right, that Agency will be able to intrude into decisions such as how and where the farmers must plow their fields, what fertilizers they must use, and what kind of cover crops they must plant. To take another example, the Agency will be able to become a major force in local zoning decisions that will determine whether families can do such basic things as build a new home. That is too much power for anyone to have, least of all the Federal Government.

As part of my FY 1988 Budget, I proposed legislation that would avoid all these problems, while continuing our commitment to clean water. It would provide $12 billion for the sewage treatment program, halfway between the $6 billion I had proposed in 1985 and the $18 billion the Congress proposes. Senator DOLE introduced this proposal as a substitute for H.R. 1.

Specifically, the Dole substitute that was voted on by the Senate was identical to all provisions of H.R. 1 for programs other than sewage treatment, with one important exception—its program for non-point source pollution was not an open end for Federal regulators. It kept Federal environmental regulators off of our farms, off of our municipal zoning boards, and out of the lives of ordinary citizens. The Dole substitute would have given States complete discretion over participation in the non-point source pollution program and complete discretion over how they used Federal funds in the program. Let me repeat—controlling non-point source pollution has the potential to touch, in the most intimate ways, practically all of us as citizens, whether farmers, business people, or homeowners. I do not believe State programs should be subject to Federal control.

The $12 billion requested in the Dole substitute would have financed the "Federal share" of all of the treatment plants that have already been started. It would also have provided the "Federal share" of financing for all facilities needed to meet the July 1, 1988, compliance requirements in the Clean Water Act. It was as much money as we needed to get the job done—period.

The Dole substitute offered the Congress a genuine compromise that met all of the national objectives and goals. Nevertheless, the Congress chose to ignore that proposal, forgoing even the normal hearing process, and repassed last year's legislation with virtually no changes. The House Rules Committee even prevented consideration of this compromise by the full House. They sought to challenge me. But in so doing they are sending a message to the American people and the world that those who want to raise taxes and take the lid off spending are back again. This is perilous.

H.R. 1 gave the Congress the opportunity to demonstrate whether or not it is serious about getting Federal spending under control. The Congress should fulfill its responsibility to the American people and support me on these important fiscal issues. Together we can cut the deficit and reduce spending. But by passing such measures as H.R. 1, the Congress divides our interests and threatens our future.

Ronald Reagan.

The White House, *January 30, 1987.*

The PRESIDING OFFICER (Mr. Daschle). Time for debate is limited to 1 hour, to be equally divided between the Senator from North Dakota and the Senator from Vermont. The vote thereon will occur at 3 p.m.

The Senator from North Dakota.

Mr. BURDICK. Mr. President, I rise in support of the Water Quality Act of 1987.

The clean water bill has followed a long trail to arrive here on the Senate floor today.

We started work on this bill in the 98th Congress.

We held a full round of hearings in the 99th Congress under the leadership of Senators Stafford and Chafee.

And, we worked out a final bill with the House late last year, only to have the President veto it.

This year, with the help of the majority leader, we brought an identical bill to the Senate as the first item of business. And again the President vetoed it.

So, today we are back for one more vote on the clean water bill. Our work for the past several years has been in a spirit of bipartisan cooperation. And, I am confident that our vote today will be both bipartisan and overwhelming

There is good reason for the near unanimous support for this bill in the Congress.

Members of Congress recognize that passage of this bill will result in cleaner water and a safer environment.

Passage of the bill will put in place a new program to reduce toxic pollutants in water.

Passage of the bill will start States down the road to effective control of nonpoint sources of pollution.

And, passage of the bill will establish a long-term funding plan for construction of municipal sewage treatment facilities.

Other provisions of the bill will improve enforcement programs, protect marine waters, and improve the discharge permit process.

President Reagan says we cannot afford this bill. We in Congress disagree with the President, and I believe that the American people disagree with the President.

Americans want clean water. They believe that the funding in this bill is an investment which will repay dividends of a clean environment for years to come.

I urge all my colleagues to join me in voting, one more time, for clean water and a safe environment.

The PRESIDING OFFICER. Who yields time?

The Chair informs the Senate that if one yields time, time will be charged against both sides equally.

Mr. MITCHELL. Mr. President, the distinguished Senator from Vermont, the former chairman of the Senate Committee on Environment and Public Works, has just entered the Chamber and will now address this issue.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. STAFFORD. Mr. President, this afternoon the Senate will be completing an effort which was started in our committee—the Committee on Environment and Public Works—nearly 5 years ago. I am confident that the Senate will vote to override the President's veto and to enact the Water Quality Act of 1987.

I have had many opportunities to speak on the merits of this legislation since it was first introduced in the spring of 1982, so I do not need to make a long speech on this occasion. But I would like to share one or two thoughts as the Senate wraps up the process today.

This is a most important piece of legislation. It reflects the tireless efforts of many Members both here in the Senate and in the House of Representatives.

Most especially, we should commend and congratulate the very able Senator from Rhode Island, Senator CHAFEE, for the time and legislative talent he has invested in this bill.

Virtually the entire Nation supports this bill. At one point last fall it passed both Houses by unanimous votes. In an area so complex with so many interests affected, that is an extraordinary achievement. Senator CHAFEE can take pride in the splendid work that he has put into this bill.

Mr. President, there are four points that need to be made with respect to the substance of this legislation.

First, and in regard to point sources of industrial pollution, this bill completes a commitment to the protection of our Nation's water resources which was made in 1972 when the Clean Water Act was enacted.

When the final deadlines incorporated in this legislation are reached, every industrial point source in the United States will be operating under a permit requiring application of the best available technology to reduce pollutant loadings to surface waters.

In addition, the bill includes provisions to go beyound even these requirements where it is necessary to achieve water quality standards and the fundamental goal of the Clean Water Act—that the Nation's waters be "fishable and swimmable."

We very nearly have the big, industrial sources of water pollution under control. In that respect, the Clean Water Act works and has worked very well. By voting for this bill, Senators will be voting to complete that achievement.

Second, this bill brings to an end the Federal Government's role in controlling pollution from municipal sewage systems. Federal law requires that all communities reach the so-called secondary treatment standard by July 1988. That is a mandate which Federal law imposes on our cities.

When we first imposed that mandate in 1972, we also promised the cities that we would share the cost of reaching that goal with them. And over the last 15 years we have appropriated more than $40 billion for the Construction Grants Program.

But we are still some ways from meeting the secondary treatment standard—3,300 communities are not yet in compliance.

If we pass this bill and appropriate the funds which it authorizes, about one-half of those communities will meet the July 1988 deadline. We hope that the remainder will be brought into compliance very soon thereafter.

But it will take a tremendous effort and investment. EPA estimates that our cities will have to spend nearly $108 billion between now and the year 2000 reaching and sustaining compliance with the secondary treatment standard—a requirement of Federal law.

This bill offers an additional $18 billion of Federal assistance in that effort—a small portion of the total requirement.

About one-half of that is made in direct grants. And about one-half will be provided through a new revolving loan program that will be capitalized with Federal dollars.

But after several years, the Federal support is completely phased out. This bill is only a modest downpayment on the investment that we are asking the States and cities to make to protect our water resources over the next decade and one-half.

Mr. President, as a third point, we need to look at the President's opposition of this $18 billion expenditure.

The renewal and modest extension of the Construction Grants Program included in this bill is the principal reason for his veto. He argues that it is excessive spending in light of the budget difficulties of the Federal Government.

I would say to the President that the Construction Grants Program has already made its contribution to deficit reduction.

In 1981, when President Reagan came to office, annual appropriations for wastewater treatment grants were almost $5 billion per year or more than double those in the bill in front of the Senate this afternoon.

In his first dramatic budget message, the President proposed sweeping changes in the structure of the program and a dramatic reduction in spending.

After a year of tough bargaining with the Congress, the President achieved many of the reforms that he sought. And the annual appropriation, I say again for emphasis, was cut in half to $2.4 billion per year. But part of the bargain to cut the $2.4 billion a year was a commitment that the $2.4 billion annual grant would be continued for a period of 10 years.

The bill we have before the Senate today fulfills that 10-year commitment. The proposals which the administration has made—both in this reauthorization debate and in its recent budget messages—fall short of keeping the promises made in 1981.

So I say to my colleagues this program has already made its contribution to deficit reduction.

It went first. It was cut in half. And the half that remains is only a modest expenditure when compared to the investments that the Clean Water Act will demand from the States and cities over the next few years.

Mr. President, the fourth and final point which I will make this afternoon is on the subject of nonpoint pollution. It is the major new element included in this bill.

Although the Clean Water Act has been a great success with respect to point sources of industrial and municipal pollution, there is a gap in the law. We have not had much success in controlling the nonpoint sources of surface water pollution, principally runoff from our farms and from our city streets.

This bill includes a new 4-year $400 million program to develop best management practices to control nonpoint sources of pollution which are preventing acheivement of the fishable, swimmable goal.

Some have said that this nonpoint control program intrudes upon the traditional powers for land use planning of State and local government.

If that were the case, Mr. President, I would suspect that this bill would be opposed by a broad range of State and local government officials who have jealously guarded those traditional land use authorities. But that is not the case. There is no opposition to this bill from that quarter nor has there been.

In fact, virtaully every organization representing elected officials and those appointed to administer environmental protection and soil conservation programs at the State and local level support this bill.

They are, in fact, demanding that we override the President's veto.

As I have said before, I deeply personally regret that we have been forced to override a Presidential veto to enact this bill. But that is what I must urge my colleagues to do.

This is not only a good bill—it is a necessary bill, and it deserves to become the law of the land.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator yields the floor.

Who yields time?

Mr. SYMMS. Mr. President, I yield myself 10 minutes from the opposition time. Or I inquire, what is the procedure?

The PRESIDING OFFICER. Does the Senator from Vermont yield time?

Mr. STAFFORD. How much time does the able Senator need?

Mr. SYMMS. Not more than 10 minutes, I say. Are we short of time? I would cooperate with that.

Mr. STAFFORD. May I ask of the Chair how much time have I consumed?

The PRESIDING OFFICER. The Senator from Vermont has consumed 9½ minutes.

Mr. STAFFORD. There are two other speakers, one of whom is the minority leader. The Republican leader has asked for 10 minutes. Will the Senator be willing to go for 5 minutes?

Mr SYMMS. I will start with 5.

Mr. STAFFORD. I yield 5 minutes.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. I thank the distinguished former chairman and ranking Republican for the 5 minutes.

I just want to say, Mr. President, that the question here is, Are we all for clean water? The answer, obviously, is yes. We are all unequivocally for clean water.

We need to remember the night the President spoke to the country in his State of the Union Address. The only point of agreement between the two parties on the House floor seemed to be that they wanted to do something about the deficit.

Now at the time this bill passed Congress last year, the projected deficit was $144 billion. We agreed to that figure and there was no alternative at that time for another bill. It became an issue of voting either for clean water or for dirty water. I do not know any one who wants to be for dirty water.

There was no alternative. The budget deficit looked like it would be manageable; so the bill passed the Congress by a large vote.

In the ensuing time after Congress adjourned, we went through the elections, came back for organizations, and so forth. In analyzing the new budget numbers, the budget deficit was projected to be $174 billion, not $144 billion.

Mr. President, I would submit to this body and to this country that there is also such a thing as pollution of the money supply, pollution of fiscal policy, pollution of the integrity and credit of the United States. We are literally piling debt upon debt upon debt upon debt.

If we look back at history, when the President was elected in 1980 and took office in 1981, we made some reductions in the Federal Government's commitment to water cleanup projects. The program was reduced from $4.5 billion per year to $2.4 billion per year. At the same time, we also reduced the percentage that the Federal Government paid. That was not without a lot of work and effort, and I commend my colleagues on the Environment and Public Works Committee that helped get that done.

What this meant was that, although the Federal Government spent less money, States and local governments spent more money. Because the cost share went from 75 percent to 55 percent, we actually got a lot of projects built for less money. It made an enormous difference in the commitment of local governments into this issue.

I have to say, Mr. President, I find it difficult to explain why it is that the Federal Government has to be totally responsible for clean water.

I have some amendments in this bill, and I appreciate the leadership of the committee that have helped make that possible, they are also found in the Dole substitute. Last year at the time this bill passed, we did not have the Dole substitute. Now we have that alternative.

What happens if the President's veto is sustained today? We come right back and pass the legislation that the President supports, which saves $6 billion of Federal commitment. We make pooh-pooh how much $6 billion is in Washington, DC. But outside of the beltway, out in the distinguished Presiding Officer's State, $6 billion goes a long, long way.

We are talking about changing the bill from a 9-year bill to an 8-year bill, spending $12 billion instead of $18 billion.

We hear our colleagues continuously say that they want to balance the budget. Well, if you vote to sustain the President's veto and vote "no" on this resolution, as this Senator will be doing, you will still be voting for clean water, but you will also be voting to cut out some of the pollution of the budget process in this town. Our colleagues can talk about it all they want to. In the short time I have been in Congress I have seen the budget in this town go from $200 billion to now a $1 trillion budget.

Where does it stop?

There are other ways to pay for water projects: The private sector for example. I see no reason why this is not an ideal place for privitization. Let cities and local municipalities pay service contracts to have the water cleaned up to EPA standards. That would get water treatment out of the realm of Government and the bureaucracy. They can build in the private sector in 2 years what it takes 7 years to build if you have to comply with all the Government bureaucracy.

I would urge my colleagues not be intimidated by the argument that if you vote against this bill you are voting for dirty water. You are not. You are voting to help clean up the polluted budget process of the Government of the United States of America, and on the 200th anniversary of the Constitution. I think that would be a very honorable and a very admirable vote.

I urge my colleagues to help sustain this veto. Vote "no" and we will clean up the budget as well as the water.

I thank the Chair.

The PRESIDING OFFICER. The Senator has used 5 minutes.

Mr. STAFFORD. Mr. President, I now yield 5 minutes to the very able Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 5 minutes.

Mr. CHAFEE. Thank you, Mr. President.

Mr. President, once again we find ourselves debating the merits of a bill which has received nearly unanimous support from both Houses of Congress as well as from industry, environmental organizations, our States and local communities, and, most of all, from the American people.

The President's decision to veto the Clean Water Act was, as I stated before, in my judgment, was a serious mistake. This is a good bill. I am saddened that the President missed an opportunity to embrace the bill, to accept it, to recognize what it achieves, and have a marvelous signing ceremony.

We discussed this bill extensively last year and again this year. Much has been said about its merits, so I will be brief.

First, I want to stress that this bill was developed last year when the Republicans were in the majority in this body, controlling the Senate. We had tremendous support from the Democratic Members, such as the distinguished junior Senator from Maine, and others who did such a splendid job with us. We took the responsibility and we passed it. It was a Senate bill, a Republican bill.

Then, of course, we went to conference, where the House had a bill vastly different, vastly more expensive. We managed to scale theirs down practically to the limits of the Senate bill. So what was left of the results of the conference was a Republican measure. And what were the figures? Well, listen to the statistics. The original Senate-passed bill cost a little less than $20 billion. The House-passed bill cost nearly $27 billion. The final bill went up just a bit from the Senate measure, to $20.7 billion. In other words, over $6 billion less than the House bill.

American taxpayers, I believe, have reason to be grateful to the Senate conferees for trimming the fat off this bill. I am not sure what the President is talking about when he says this has lard and pork in it.

Third, the bill accomplishes one of the main goals of the administration's proposal. It ends the construction program. Now, how is that, a Federal program ending? We ought to have a monument to that, because how often do you see a program end around here? And this does it.

We set up a revolving fund, a mandatory revolving fund, in the last several years of this measure so the cities and towns and communities can borrow from that and continue with the construction of their waste treatment plants.

Fourth, the President states in his veto message that when we get into the nonpoint pollution control section of this bill, that this is Federal land use planning. There is a mistake in the interpretation that was given to the President on this. It just is not Federal land planning.

The nonpoint provisions in the bill were carefully crafted to avoid that. The primary role of the Federal Government in the nonpoint program, in other words, controling pollution from streets and runoff of fertilizers from the farms, the primary role of the Federal Government is to provide financial assistance to the States which are given the lead in developing their own programs. It is not Big Brother from Washington telling them how to do this. The States do this. We give them some money to help them. We do not mandate it. Farmers are not required to seek permission from the Federal Government to carry out their farming practices.

We have been around long enough to know that is a loser. That would kill the bill. Do you think the Senators from Montana or Maine or any of the States with large argicultural practices would vote for a measure like that? Of course they would not.

So the administration's arguments on that are really red herrings.

This is a strong environmental bill, it is a fiscally responsible bill, and it lives up to our national goal of making the Nation's waters fishable and swimmable.

Yesterday the President's veto was overridden in the House 401 to 26. I hope my colleagues will join me to override the veto today. It is time we get on with the job. Let us go on to something else. We have been on this long enough.

I wish to thank the distinguished junior Senator from Maine, especially, for the marvelous work he has done in connection with this measure.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Vermont has 9 minutes and 20 seconds remaining.

Mr. STAFFORD. I thank the Chair. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator reserves the remainder of his time.

Mr. MITCHELL. Mr. President, I yield 3 minutes to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana is recognized for 3 minutes.

Mr. BAUCUS. Mr. President, I thank the Senator.

Mr. President, I rise to support overriding the President's veto of legislation to extend and strengthen the Clean Water Act. It is my hope that this body will act unanimously in overriding the President's veto.

In considering this legislation, we must all recognize that the issue before us is an environmental issue. It is not a budget issue. Clean Water has the strong support of the American public. Sustaining the veto of this legislation will send the wrong signal to the American people. Sustaining the veto will signal a retreat by Congress from a goal of having clean lakes and rivers.

It is the lakes and rivers of this Nation that will suffer.

Ninety-three percent of the American public in a recent poll considered toxic pollution of our lakes and rivers a serious problem. This legislation addresses that! For the first time, toxic hot spots will be identified and a toxic control strategy will be put in place.

In my own State of Montana, the serious water quality problems facing the Clark Fork River and Lake Pend Oreille will not be addressed if the veto is sustained.

Non-point source pollution is a serious problem. EPA has identified nonpoint source pollution as the cause of over 50 percent of our remaining water quality problems. This bill deals with that! It takes meaningful steps toward cleaning up non-point source pollution. States will be able to build on the progress they made during the late 1970's under the 208 Program. Programs will be put in place to identify and control this pollution.

Now, this legislation has been called a budget buster by the President. This legislation is not a budget buster. It is a bipartisan bill, developed using budget figures which this administration supported. It contains funding authorization at the same level it has been at over the past few years—$2.4 billion.

We should not ignore the commitment and will of the American people to have clean lakes, rivers and streams. It is my hope that the Senate will act unanimously to override this veto. We must send a message to the American public on our commitment to a clean environment. Water quality is too important an issue to be bogged down by bipartisan bickering.

Former chief assistant to Senator Edmund Muskie, Leon Billings, who helped draft the Clean Water Act, recently made a speech at a water conference in California, which is appropriate to the issue of the veto override. I ask unanimous consent that the text of that speech be printed in the RECORD.

There being no objection, the text was ordered to be printed in the RECORD, as follows:

Remarks of Leon G. Billings, Managing Inflows to California's Bays and Estuaries

I have been asked to help open this conference by providing a perspective on two decades of federal clean water policy. I appreciate the challenge. It would test your capacity to sit through a dissertation on 20 years of history, and it would seriously tax my memory. So I will do neither.

I will talk a little bit about the evolution of the basic law, a little bit about its devolution and finally about the ghost of Christmases yet to come.

The Clean Water Act is a pollution control law. It is not a public works program, though it has generated a great many public works jobs. It does not address just a sanitary engineering problem, though those who implement it often have tried to use it to relate pollution control to nature's presumed capacity to be the ultimate waste treatment plant.

The Clean Water Act was written during a period of much scientific ignorance but great political courage. It was written by people who believed that our ignorance of the impact of increasing pollution argued for, not against miminizing the discharge of pollutants.

We knew that the regular order argued for evidence of adversity prior to regulation. But we believed that delay while scientific knowledge was developed could mean environmental disaster. We also knew that if we put off action, our opponents would continue to find new arguments to support the status quo.

We believe that prohibiting the discharge of pollutants would be a significantly more effective way to protect the environment than trying to reduce pollution incrementally.

So we wrote two concepts and a compromise into the 1972 Clean Water Act. First, we established a national goal of the elimination of the discharge of pollutants—impossible—to achieve and maintain biological integrity of receiving water—outlandish. As a compromise, we added an interim goal of assuring that the water quality would at least support fish, shellfish, wildlife, body contact sports and drinking water uses.

Today there is a preoccupation with that compromise—euphemistically referred to as "fishable, swimmable"—a euphemism which I find repugnant. Fishing for something which can't be eaten because of toxic uptake or swimming in water which can't be swallowed because of invisible and ordorless pollution fall far short of any ecologically acceptable standard of human behavior which I am prepared to accept or which the 1972 Clean Water Act intended to endorse.

The Clean Water Act intended a regulatory philosophy unrelated to that interim goal.

It intented to establish nationwide technology-based standards for similar kinds of producers of pollution.

It intended to reduce that pollution periodically through improvements in technology. It intended to encourage manufacturers to eliminate the discharge of pollutants as the most cost effective way to avoid additional regulatory requirements; five year permit reviews; constant monitoring and periodic enforcement.

In other words, it intended to both conserve clean water and encourage closed systems.

Because engineers argued that elimination of discharge of pollutants couldn't be done, and regulators accepted that canard, the technology of closed systems has not been pressed except for conservation or price; consumptive use of water has been encouraged; the use of receiving waters as a part of the waste treatment cycle or as ultimate sumps for pollutants continues to be public policy.

There was a vision for the future in the 1972 law and its 1965-1970 antecedents. Unfortunately, because of regulatory failures, inane debates over the feasibility of zero discharge or the rationality of biological integrity, overt commitment to waste loadings and consumptive uses and the inability to wrench the water pollution community from the concept that receiving waters are a part of the waste treatment process, that future will be much more costly—environmentally and economically. Limits which could have been avoided will be imposed.

The American people will be angry—no, they'll be furious—when they learn that their waterway, the underground aquifer from which they derive their drinking water or their fishing hole has been poisoned by the indiscriminate distribution of their environment of pollution—polluted liquids.

They have already spoken of the willingness to clean up yesterday's mess. That was two decades ago. And they spoke loudly and clearly again with Superfund this year. Even this President didn't let that message fall on deaf ears.

I don't think for a moment that the American people are prepared to compound either the cost or the potential threat to their health and safety by allowing a repetition of past failures.

The Ameican people are an odd lot. We expect government to keep its promises. We have expressed a repeated and growing willingness to pay the cost of pollution control. And, God knows, we have invested billions in clear air and clean water in the past two decades to prove it.

If the public finds out—or should I say when the public finds out—that we have been misled—that technical bickering among regulators and engineers has only reduced visible and noxious pollution—that the safety of our children continues to be threatened with ever more pernicious distribution of toxic and chemicals into an environment our people believe to be safe—my friends, there is going to be hell to pay.

You see pieces of it now and then. California just received the most recent taste in Proposition 65.

And as one who was an unsuccessful candidate for Congress, I found environment to be one of two major issues which brought new people excitedly into the electorate.

Politicians and public officials had better well realize that compromises to special interests and reflexive acceptance of complexity as justification for avoiding public accountability will be dealt with harshly by a public increasingly concerned with the risk to their health by environmental excess.

I believe the day of reckoning is near. The environment was one of the few cutting issues in the most recent election cycle. More radical expressions of public policy to deal with pollution increasingly are going to require recorded positions. Politicians who align themselves against those positions will feel the lash of outraged citizens who appreciate the simplicity of direct action. And even in America, an environmental "New Left" could spring up to make opponents uncomfortable on controversial questions.

This has already started. One example: In the 1960's and early '70's, Congress vigorously resisted authority for administrators to levy fines. Congress even repealed an 1899 pollution law that allowed bounties. This was in part an outgrowth of the antagonism towards bureaucratically imposed penalties under the Occupational Health and Safety Act and the Coal Mine Safety Act. Congress wanted the courts—not bureaucrats—to establish penalties for noncompliance.

Today, administrative penalties have become commonplace. Bounties and citizen action penalties are next. The public simply is not going to let its politicians off the hook to the special interests and they are going to demand ways to take the law into their own hands.

The Clean Water Act, the Clean Air Act, the Resource Conservation and Recovery Act, provided an opportunity to avoid both the political consequences and the economic cost of less rational, more radical alternatives. Two decades ago under the leadership of Ed Muskie, a warning was issued and an opportunity offered. In my view, too few took advantage and too many tried to negotiate the least cost alternative. I believe these matters will ultimately not be negotiable.

As little solace as it is as we enter a new decade of environmental activism that could prove irresponsible, some of us will have to find our comfort in the phrase, "we told you so."

I want to end on a current event—the recent veto of the 1986 Clean Water Amendment.

This is not a new experience for me.

On the last day of the 92nd Congress, I sat on the Senate floor as then-President Nixon's veto of landmark clean water legislation was overridden. Richard Nixon vetoed that bill because he said it cost too much.

Fourteen years later President Reagan vetoed the most recent extension of the Clean Water Act for the same reason: it costs too much. By this President's standards, I'm sure that's true. But what doesn't, except Star Wars? In plain fact, the bill is cheap. Not only is it cheap, it proposes to abandon any federal role in funding the nation's water cleanup program.

Ronald Reagan had every philosophical reason for vetoing Superfund and was compelled to sign it by his political advisers. Superfund cost to much. The finance method was unacceptable to the Administration. It provided not only a new tax but a new form of tax, both unacceptable to the President. And the amendments simply do not do away with the provisions of that law that the Reagan Administration and its allies in the business community consider most pernicious.

But the Superfund decision had to be made before the election. Not so, clean water—even a clean water bill that reached the soul of Reagan philosophy. Not only did this bill phase out federal funding of municipal sewage treatment plants, for which the Federal Government contributed as much as 75 percent as recently as five years ago, it also established the basis on which the states can make the argument that having removed the carrot of federal funding, Congress should remove the stick of federal regulations.

The bill cut current construction grant authorizations by more than half, and phased out the federal grant altogether in nine years. After 1994, there would no longer be a federal sewage treatment construction grant program. States would have to finish the job of cleaning up the nation's backlog of waste treatment needs by themselves.

One could argue this bill should have been vetoed on environmental grounds. But environmentalists inside and out of Congress agreed to this substantial compromise, acceding to the inevitability of shrinking federal resources.

In return, the hope is for a rational state-level program that holds the promise of filling the basic needs of clean water.

I would like to suggest that this hope is highly optimistic. In 1972, Congress approved $18 billion over three years for water pollution construction, a commitment equivalent to $54 billion in today's dollars. By that measure, $2¼ billion a year looks like a pittance, and it certainly falls far short of community needs.

So, here we have a major federal program cut back and phased out over a reasonable period and turned over to the control and financial resources of the states. Sounds like Reagan Administration gospel, doesn't it? Yet President Reagan vetoed the bill for only one discernable reason—the authorization is "too much." The President proposes not an orderly retreat but a headlong flight from the federal construction grant program.

If this President's decision stands, all those communities—including some of the nation's most important in terms of water pollution control—who have waited patiently in line as their neighbors have built subsidized treatment plants, would simply be out of luck. The 90 percent of Americans who support the clean water program would simply be out of luck.

The Democratic Congress ought to reintroduce the vetoed bill, send it to the White House one more time; overrule his veto—and then the 100th Congress ought to set about undoing the damage to federal environmental policy which the Administration has wreaked for eight years.

Mr. BAUCUS. Mr. President, again I ask that we vote overwhelmingly to override the veto.

I yield the balance of my time back to the Senator from Maine.

Mr. MITCHELL. Mr. President, the President has vetoed legislation to extend and strengthen the Clean Water Act. I hope all of my colleagues will join me in voting to override the President's veto.

Over the past several weeks, I have spoken on several occasions on the many issues addressed in this legislation. Today, I will review some of the points made in earlier statements and specifically address the concerns raised by the President in his veto message.

This bill was developed over several years by Democrats and Republicans in both Houses of Congress.

The Republican leadership of the Environment Committee, Senators STAFFORD and CHAFEE, worked with Democratic members of the committee and with the Democratic leadership of the House to develop a balanced approach to resolving our most pressing water pollution problems.

Senator CHAFEE served as chairman

of the Senate conferees for our conference with the House. More than any other individual, he deserves credit for this legislation. Under Senator CHAFEE's leadership, the conference adopted the more reasonable Senate approach to funding of sewage treatment projects and adopted the best of the regulatory improvements contained in both bills.

In the Senate, the majority leader and the new chairman of the Environment and Public Works Committee, Senator BURDICK, have worked hard to bring the bill to the floor and assure its passage. And, Senators CHAFEE and STAFFORD have joined us in this effort, along with over 70 other Senators who cosponsored the bill.

Part of the reason the bill has such broad, bipartisan support in Congress is that it is recognized as sound legislation addressing some of our most pressing water pollution problems.

From the many important provisions of the bill, I want to mention three which will be major steps forward in control of water pollution and protection of the environment.

The bill provides a new approach to control of toxic pollutants in water. It sets out a specific schedule for identification of toxic hot spots and development of toxic control strategies. This provision is an important addition to our ability to protect our waters from increasing amounts of toxic chemicals.

Another key provision of this bill provides for State programs to identify and control nonpoint source pollution. Nonpoint pollution is caused by general runoff rather than discharge from a specific pipe. The Environmental Protection Agency reports that these sources of pollution cause over half of our remaining water quality problems.

And, the bill provides for creation of State loan funds to assist in financing of local sewage treatment plants. These State loan banks will take the place of Federal grants and will provide a permanent funding source for future water quality improvement projects.

Congress is not alone in strong support for this legislation.

The hearing record for the bill documents strong support from a wide range of industry and environmental groups. Newspapers from San Diego, CA to Bangor, ME have published editorials praising the bill. Polls show that the public favors continued effort to improve water quality by large margins. Final enactment of this legislation will be an important step toward carrying out this mandate.

If this is bipartisan legislation; if it will effectively address our most serious water pollution problems; and if it has strong public support, why did the President veto the bill?

The President has stated several objections to the bill. He has called it a budget buster and pork laden. And he has called the nonpoint provision of the bill federally controlled and directed. But the President is wrong. The bill is none of these things.

This legislation will not bust the budget, as the President says. Rather, it is a responsible compromise between the cost of the many, badly needed water quality projects and the need to control the Federal deficit.

The bill is plainly not a budget buster. It authorizes the expenditure of $18 billion over 9 years to assist communities in construction of sewage treatment plants. This amount alone does not make the bill a budget buster, for the President supports other bills which would cost far more money.

Does the bill exceed the annual funding authorizations of the past several years? No. The annual authorization of $2.4 billion is the amount we have authorized for this program for the past 5 years.

Does this bill authorize funds above the levels approved in the budget resolution? No. The 1987 budget resolution provides for funding the construction grant program at the level of $2.4 billion for fiscal years 1987, 1988, and 1989.

Does the bill exceed the long-term funding plan, agreed to by the Reagan administration and the Congress during the 1981 amendments to the Clean Water Act? No. That agreement, which was publicly acknowledged by the administration, provided for funding at the level of $2.4 billion for 10 years.

In return for that long-term funding commitment, the Congress agreed to major reductions in the size and scope of the program. Now we have proposed a funding plan which is consistent with that agreement and we are told it will bust the budget.

The President's veto is a violation of that commitment, a breach of an agreement entered into in good faith. We made a bargin. We kept our part of it. The President did not.

He says this bill will bust the budget. Yet, at the same time the President proposes to increase spending for foreign aid by $1.7 billion a year, to a new record of almost $15 billion a year.

Thus, the President proposes to devote nearly $15 billion in 1 year to foreign aid, while opposing Congress' plan to spend $18 billion over 9 years to clean up America's waters.

President Reagan said that Congress cannot have it both ways. Well I say to the President that he cannot have it both ways. He cannot propose and sign into law the biggest budget deficits in history, and then express surprise and outrage at these deficits. He cannot on one day say that spending money to clean up American waters will bust the budget and then the next day propose to increase foreign aid by billions of dollars.

Many Americans join me in asking President Reagan: Why do you feel we can afford major increases in foreign aid but can't afford to keep America's waters clean? I do not believe the American people share the President's priorities on this issue. They want clean water. They favor the Clean Water Act overwhelmingly.

Another objection raised by the President is that the bill is laden with pork.

It is not clear what the President is referring to. He may be referring to the fact that the funding in the bill will be passed down to thousands of communities in every State and congressional district in the country. He may believe that this bill has strong support in Congress because Members of Congress will take credit for projects built in their district.

While there may be some who support the bill only for this reason, the great majority of Members of Congress recognize the importance of clean water and the need for the Federal Government to assist communities with major construction projects.

It is important to point out that this bill does not, in most cases, provide funds directly to a community project. Rather, a lump sum is made available to a State and the State allocates funds among communities. State project priority lists are based on the relative environmental benefits of specific projects, and not on the political influence of a Member of Congress.

It may also be that the President is concerned that funding will be used to build unnecessary or gold-plated treatment facilities.

While no large program of this nature is perfect, the primary objective of the grant program is to build secondary sewage treatment facilities. Secondary treatment has always been identified in the Clean Water Act as the minimum level of treatment which should be in place in all communities throughout the country.

And, as I said, the program is designed to direct limited funds to provide secondary treatment in those areas which will get the greatest environmental benefit.

Finally, it is possible the President's concern can be traced to a number of special projects authorized in the bill.

There are about half a dozen of such special projects in the bill, depending on what is counted, with total authorizations of about $459 million. These projects were agreed to in our conference with the House from among a group of over a dozen projects, with total costs of over $2 billion.

These projects generally address truly unique circumstances, posing serious environmental threats, which are beyond the reach of standard clean water programs. For example, special projects would address the problem of sewage from Tijuana, Mexico washing up on San Diego beaches; and the huge and complex problem of pollution in Boston Harbor.

Even the administration recognized the value of these projects. The substitute bill considered in the Senate last week, which was the bill the President supported, included every one of these special projects.

So, evidently according to the President, if a project is in the bipartisan congressional bill, its pork. But the very same project in the President's bill is not pork.

That position is devoid of logic and common sense.

The President also criticized the nonpoint pollution control section of our bill as federally directed and controlled.

That criticism is inaccurate.

This bill does not provide for Federal intervention in State and local land use planning decisions. The nonpoint provision gives States the lead role in addressing nonpoint pollution problems. The Federal Government plays a limited, support role.

Further, the bill does not direct States to establish regulatory programs for control of nonpoint sources of pollution. It specifically refers to a wide range of nonregulatory programs such as education, training, technical assistance, and demonstration, while not preventing a State from adopting a regulatory program where needed.

Only if a State fails to take the first step in addressing nonpoint pollution, which is to develop an assessment of nonpoint problems, does EPA step in to prepare an assessment for the State. This backup role is necessary in this limited circumstance to assure that we have a consistent, national data base on nonpoint problems.

The EPA will not step in if a State does not choose to proceed with further steps in the process, such as developing a control program. If a State decides that it does not want a program to control nonpoint pollution, that is it.

It is inaccurate and misleading to call this provision "federally directed and controlled," as the President has. It is, in fact, the opposite of "federally directed and controlled."

It leaves the decision on whether or not there is to be a State program to combat nonpoint pollution entirely up to the State. And if the State decides there will be no program in that State, then there will be no program in that State, and the Federal Government cannot do anything about it. There is therefore absolutely no factual basis, none whatsoever, for the President's assertion that this is a federally directed and controlled program.

Finally, I want to point out that this section was carefully designed in long negotiations with House conferees. We responded to those who expressed concern about Federal intervention in local decisions. We responded to those who were concerned that particular groups or sectors would be burdened by such programs. These concerns were addressed so successfully that both Houses of Congress approved the bill unanimously.

Let me briefly address several other points in the President's veto message.

The President says that our bill reverses reforms to the Construction Grant Program, relating to the Federal share of project costs. In fact, the bill does not change the Federal share of project costs in the program. While it does provide a higher Federal share for a handful of specifically identified projects, this is hardly a reversal of reforms to the program.

The President says that his veto of the bill will have no immediate impact on our water quality programs and that much of the framework of the Clean Water Act remains in place. In fact we have a bill, supported by virtually every interested group, which updates the Clean Water Act to address problems as they exist today and to respond to emerging problems.

If we fail to adopt these improvements we will lose initiatives to protect Chesapeake Bay and other estuaries, to control toxics, to protect the Great Lakes, and to improve our regulatory programs to mention just a few. The adoption of this program will be an immediate and significant benefit to water quality and their abandonment would be an immediate and significant detriment.

Finally, the President states that the funding proposed in the administration alternative bill of $12 billion was sufficient to provide the Federal share for all projects needed to meet the 1988 compliance deadline in the act.

There are very different opinions on this question. During earlier debate on the bill, I submitted a letter from the Association of State and Interstate Water Pollution Control Administrators. This association, made up of the professional administrators managing our water quality programs on a day-to-day basis, states that, under the administration's recommended funding level, "a large number of communities will not meet the municipal deadline and will face significant enforcement penalties * * *."

In addition, the association states that the administration plan would eliminate more that 1,300 communities from participation in the financing program and the timeframe for municipal compliance will be increased by 33 percent.

Mr. President, a veto is an important and unusual action in our legislative process. It is reason for each Member of Congress to review his or her thinking about a bill and consider the objections voiced by the President. That we have done. It is clear at least to this Senator that there is no substance to the objections voiced by the President.

I hope my colleagues will take another look at the clean water bill. I think they will find that it is solid, bipartisan legislation which has the overwhelming support of the American people. And, I think they will find that there is no basis for the President's charges that the bill is a budget buster and "laden with pork."

I urge my colleagues to join me in voting for the clean water bill for a fourth, and I hope final, time.

Mr. President, I ask unanimous consent that a letter signed by 29 national organizations urging that the veto be overriden be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Hon. George Mitchell,
U.S. Senate, Washington, DC.

Dear Senator Mitchell: We, the representatives of the undersigned organizations and our millions of members across the nation, respectfully urge you to vote to override the President's recent veto of the Water Quality Act (H.R. 1).

This essential federal water pollution abatement program is overwhelmingly supported by the American public. The legislation is critically important to restore the health and quality of our nation's waters and to maintain a growing economy. You will recall that Congress approved this legislation in January by a near-unanimous vote.

In summary, we strongly believe the Water Quality Act is balanced, comprehensive and cost effective. We strongly urge you to vote to override the Presidential veto and enact the legislation into law.

Sincerely,

Gerard M. Kenny, President, National Utility Contractors Association; Alan Beals, Executive Director, National League of Cities; J. Michael McCloskey, Executive Director, Sierra Club; Nancy Neuman, President, League of Women Voters; Robert Georgine, President, Building and Construction Trades Department, AFL-CIO; John Horsley, President, National Association of Counties.

Rick Hind, U.S. Public Interest Research Group; Joe Riley, President, U.S. Conference of Mayors; Ruth Kaplan, Executive Director, Environmental Action; Daniel J. Bennet, Executive Vice President, Associated Builders and Contractors; Jay D. Hair, Executive Vice President, National Wildlife Federation; Marvin Boede, General President, United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry, AFL-CIO.

Anthony Obadal, Washington Counsel,

Associated Equipment Distributors; Steve Hellem, Executive Vice President, National Environmental Development Association, Clean Water Project; Robbi Savage, Executive Director, Association of State and Interstate Water Pollution Control Administrators; Don Kaniewski, Laborers' International Union of North America; Lester Poggemeyer, President, American Consulting Engineers Council; James R. Borberg, President Association of Metropolitan Sewerage Agencies.

Joseph Kuranz, President, National Society of Professional Engineers; June Rosentreter, President, American Public Works Association; Jonathan B. Howes, President, National Association of Regional Councils; Cyril Malloy, Jr., Vice President of Government Relations, American Concrete Pipe Association; Dawn Kristof, President, Water and Wastewater Equipment Manufacturers Association; Robert Walker, Executive Director, Uni-Bell PVC Pipe Association.

Cynthia E. Wilson, Executive Director, Friends of the Earth; Rep. Irving Stolberg, President, National Conference of State Legislatures; Richard E. Hall, President, Associated General Contractors; David Zwick, Executive Director, Clean Water Action Project; William A. Butler, Vice President for Government Relations and Counsel, National Audubon Society.

Mr. President, before concluding I want to take just a moment to commend Senators STAFFORD and CHAFEE, particularly Senator CHAFEE, who more than any other single individual is responsible for this legislation, is responsible for much of the protection of the American environment that has occurred in this Nation over the past decade. As he said, this is essentially a Republican bill crafted by Republicans with some support from Democrats like myself and Senator BURDICK and others. Therefore, it is particularly ironic that the President would engage in such an assault on this bill.

Mr. President, I have completed now and I yield the floor.

The PRESIDING OFFICER. The Senator yields the floor. Who yields time?

Mr. EXON addressed the Chair.

Mr. STAFFORD. Mr. President, I have been advised that the Republican leader will only require 5 minutes. I could make available to the very able Senator from Nebraska 3 minutes if that would be of assistance to him. I would be glad to do that.

Mr. EXON. I appreciate very much the consideration from my friend from Vermont. I wish that I could receive the same consideration from my side of the aisle. But that is the way things go from time to time.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

Mr. EXON. Mr. President, this Senator is familiar with the needs of this country to preserve, protect, and clean up this Nation's water. I voted for this proposal last year, and I support the concept today. We approach a vote on the second veto of this measure by the President. This Senator will vote to sustain the veto. The record will show that my vote was for the Dole substitute last month, which was what I felt to be a workable compromise by scaling back the earlier veto amount from $18 billion to $12 billion. The President's suggestion was $8 billion, and he had agreed to an increase of $12 billion. That Dole motion failed.

Indeed, it received only a very few votes. I joined the Senate in passing the original funding level by that Congress of $18 billion since I had no opinion but to vote for the higher figure or nothing.

The President vetoed again and the House has already overridden by a huge margin.

The argument has been incorrectly framed, I suggest. It is not whether one is for or against clean water or for or against the President.

The legitimate issue is what level of funding is prudent, given the budget restraints. I had a feeling that the President's $8 billion figure was too low and the $18 billion congressional figure was too high. That is why the negotiated middle ground negotiated by Senator DOLE made sense to me.

This is a judgment call for expenditures for a worthy purpose for a number of years. Indeed, $12 billion may not be enough. If so, future Congresses may have to make a further commitment to meet this Nation's clean water needs.

Mr. President, despite the rhetoric from 1600 Pennsylvania Avenue and the general perception that this administration is conservative in spending, this Senator has frequently pointed out that this administration is the champion spending machine of all time. In the last 6 years, more national debt has been created than all of our previous administrations combined.

Promising to balance the budget in 1984, this administration has run rampant in the opposite direction at breakneck speed.

Simultaneously, they have succeeded in their unannounced initiative of turning the United States of America from the world's largest creditor to the world's largest debtor nation, while amassing the largest trade deficit in our history.

Now the President has finaly stirred from his budgetary morass and has done something specific and constructive at long last for at least a measure of fiscal restraint and there is a "don't let him do it to us" philosophy sweeping the Congress, Republicans and Democrats alike.

How anyone who voted for the Gramm-Rudman amendment to restrain spending can vote to override this veto is beyond my comprehension. I presume the Senate will follow the House and "teach the President a lesson."

Regardless of the merits of this proposal, and there are many, the President will employ his recognized communications skills to point from this day, forward and specifically on this upcoming vote to override the veto, that he is the one who wants to have the balance and we are the ones who are the unbalanced in fiscal sanity.

Politically, if we override, we will have made his day, and the "there they go again" philosophy will be employed by the Presiden't speech-writers.

The Senator will vote to sustain the veto with the hope that if that action is taken we can take up and pass the Dole compromise.

I thank my friend for yielding time and I yield the floor.

Mr. MITCHELL. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator from Maine has 12½ minutes remaining.

Mr. STAFFORD. I yield 1 minute to the Senator from Idaho.

Mr. SYMMS. Mr. President, I thank the Senator for yielding.

I compliment my good friend from Nebraska for his remarks. I share the analysis that the Senator from Nebraska, a former Governor of that State, makes.

I would also like to say, Mr. President, that, for example, the amendment on the Clark Fork River and Lake Pend Orielle as it comes out of Montana, in the amendment which I offered and which I have supported, and on which I worked with the Senator from Montana to help pass, is also in the Dole substitute. We are getting most of what we asked for in the Dole substitute with a little more reason in terms of where we are going on the budget.

In closing, I attended the Idaho water users' convention in Idaho since this bill passed the Senate, before the President's veto message was returned. The water users, the people, and the lawyers for water users, are concerned about the land use planning aspects of this bill.

Mr. MITCHELL. I will yield a minute from my time to the Senator if he wants to complete his remarks.

Mr. SYMMS. I have completed.

Mr. MITCHELL. Mr. President, there were several Senators who requested time to speak in support of the veto override who have not yet appeared.

The PRESIDING OFFICER. Who yields time?

Mr. MITCHELL. Mr. President, I will briefly address some of the objections which have been raised, particularly regarding the level of spending, by making several points to my colleague and to others on this matter.

The first point is that 5 years ago we drastically reduced this program. At the President's request we reduced the level of spending from $5 billion a year to $2.4 billion a year. That is where it has remained ever since.

At the President's request we reduced the scope of sewage treatment projects that are eligible for Federal assistance, and at the President's request we reduced the percentage of Federal assistance for those projects which remained eligible from 75 to 55 percent.

This program underwent a dramatic reduction at the President's request.

In exchange for that the President and his administration made an explicit, publicly stated commitment to support funding for this program at the reduced level of $2.4 billion a year for 10 years, through 1992.

In 1986 the President came along and said $2.4 billion is too much, having just a few years before made an explicit, publicly stated, acknowledged commitment at that funding level.

I just believe that in terms of what we need this is a responsible bill. The Reagan administration's EPA estimate of the unmet needs in our country is vastly in excess of the $18 billion in this bill, vastly in excess of it. It has been variously estimated in the range of, in one case, $50 billion. That estimate has been attacked as too low. Another is at $75 billion, which has been attacked as too high.

I just say that the amount of money here is consistent with, indeed below, the commitment made by the administration with the Congress, and it is far less than the amount necessary.

Therefore, I believe it is a responsible level of funding, not as much as some would like but more than others would like to deal with a very serious problem.

Mr. DOMENICI. Will the Senator yield 1 minute to the Senator from New Mexico?

Mr. SYMMS. Will the Senator yield for one brief question on that point?

Mr. MITCHELL. I yield.

Mr. SYMMS. I hear what the President is saying and I am aware of the President's talk in 1982, but the budget situation has changed. We have run up another $1 trillion worth of debt. Does the Senator think there has to be an adjustment when the red ink is hemorrhaging all over Washington, DC? It is a miracle that the Potomac has not turned red. Does that make a difference?

Mr. MITCHELL. It does, and I will address that in a minute.

I yield first to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, on the water bill, I hear Gramm-Rudman-Hollings, spending money, I hear those kinds of words spoken up here. Frankly, I am going to vote to override.

I have looked at the bill. It does not spend a penny. It is an authorizing bill. Congress has to appropriate the money to be spent and it will do so each year. It will appropriate, strangely enough, less or more, depending upon what Congress wants to do.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MITCHELL. I yield an additional 1 minute to the Senator.

Mr. DOMENICI. I thank the Senator.

Let me repeat. We have a program on the books where we send money to our States to help clean up sewer plants and clean our water here in the United States. There is nothing automatic about this expenditure. Every year Congress has to send the President an appropriations bill and say, "This much money for this program." That is, regardless of what we put here, it will be appropriated each year.

All this is a suggested target. It spends nothing.

I do not think we ought to go through this whole ordeal once again. I regret to have to vote to override, but I really do not think the President should have vetoed this bill to begin with.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine has 5 minutes remaining. The Senator from Vermont has 4½ minutes.

Mr. MITCHELL. Mr. President, we are awaiting the arrival of the minority leader, for whom the last 5 minutes of my distinguished colleague's time is reserved. Therefore, I shall take the few moments awaiting the arrival of the distinguished Senator from Kansas to summarize again what I think are the central points.

The first is that all of the attention today and much of the debate has focused on the level of funding. It ought to be made clear that there are other important provisions in this bill. One deals with toxic substances and their discharge into our Nation's waters, a growing problem of concern to all Americans. For the first time, we have a comprehensive proposal to deal with that subject. That is an important part of this bill.

The second part deals with the nonpoint pollution problem. The Reagan administration's own EPA estimates that it makes up over half of the remaining water pollution problems in our society. This legislation is an attempt to deal with it in a modest, responsible, restrained way by having the Federal Government encourage States to develop State programs to combat nonpoint pollution but not requiring them to do so.

Third, this bill will end the Federal water pollution program. It is a tribute to Senator CHAFEE's innovativeness and legislative skill that he devised this mechanism to satisfy those who want to continue the program and the President's objection to its continuation. As a result, we have a multiyear authorization in the last 4 years of which the money will go to the States to set up a State revolving fund. Then the States can continue the program.

President Reagan could have and should have declared victory because, as Senator CHAFEE said, as a result of the President's initiative, a major Federal program will be coming to an end. We are creating a mechanism under which the States can continue to deal with the serious problem of water pollution in our society.

So all of these thing combined—the toxic waste program, the nonpoint pollution program, the transfer of authority for the program to the States, combined with the appropriate level of funding—account for this bill's having broad bipartisan support, having passed the Senate unanimously last fall. Those Senators who said today they are going to vote to sustain the veto just 2 months ago voted for the bill. What has changed in the past 2 months to make something that they voted for now something to vote against? What occurred in the last several weeks to clean water to make those Senators who voted for this bill now say suddenly that it is a bill that should not be enacted into law?

For all of these reasons, Mr. President, I urge my colleagues, let us send a loud and clear message to the President on the American environment: the American people want clear water. They have seen what the Clean Water Act has done and they want to continue that program.

Mr. President, I note the distinguished minority leader has entered the Chamber. Therefore, I yield the floor and anxiously await the words of the minority leader.

WATER QUALITY ACT OF 1987

Mr. BYRD. Mr. President, the Senate is about to vote to override President Reagan's veto of the clean water bill. The vote to override the President's veto is not a partisan vote or a vote of congressional defiance.

The vote yesterday by the House, 401 to 26 clearly reflects the bipartisan support for this legislation. The Senate in voting to override the President is voting to continue a great bipartisan effort, begun in 1972, that Congress after Congress has reaffirmed; that the national commitment to restoring our Nation's great rivers and lakes will continue.

It is important to define what the

Congress is trying to achieve in voting to override the President's veto. We are voting to support State and local governments' efforts to meet Federal compliance standards to clean up our Nation's water.

We are voting to give State and local governments the tools they need to come to terms with nonpoint source pollution. We are voting for an orderly transition from Federal financial assistance to the development of State revolving funds.

The legislation before the Senate is familiar to all of my colleagues. We have voted for this legislation twice before. And, we have voted for it overwhelmingly on both occasions. Over the last 5 years countless days and hours have been spent by my colleagues to craft this important piece of legislation. As my distinguished colleague from New York, Senator MOYNIHAN stated recently, the conference committee that worked to resolve the differences with the House met for 12 months.

Last year, at the close of the 99th Congress, the Senate voted overwhelmingly to pass the clean water bill. In doing so the Senate believed that it was capping one of the most successful environmental initiatives of the last decade and a half. We believed when we sent the clean water bill to the President for his signature that we were sending him a noncontroversial bill. We believed we were voting for legislation that was in the best interest of the country.

Yet, there are clearly differences between the administration and the Congress. The administration says we cannot afford clean water; the Congress says we must. The administration says that the bill before us assumes responsibility that is best left to State and local government. The Congress, in voting for H.R. 1, is voting to continue one of the most successful examples of federalism at work; the Federal Government working in tandem with State and local governments to clean up our Nation's water. The administration suggests that the legislation before us is a budget buster. The Congress believes that $20 billion over 9 years is a prudent sum in order to make an orderly transition to full State and local responsibility.

Much has been made of this legislation as a sign of the coming partisan battles between the Congress and the administration. But the truth is that the legislation before the Senate is not partisan.

My distinguished Republican colleagues Senators STAFFORD and CHAFEE are two of the great environmental leaders of the Senate. They have been and continue to be champions of this very important piece of legislation. The legislation before us was carefully crafted by them in the last Congress to reflect the chief concerns of the administration; that the Federal Government reduce its long-term financial commitments; and that a time certain be fixed when Federal involvement would end. Both of those concerns are reflected in the legislation before us.

Mr. President, I urge my colleagues on both sides of the aisle to vote for this legislation as they have in the past. We are voting, ultimately, to be good stewards; to follow the old biblical injunction in Genesis 2:15 that Adam and Eve were put into the Garden of Eden "to dress it and keep it." The American people have made it abundantly clear that they want to redress pass environmental mistakes; to keep for future generations the promise embodied in this legislation that our Nation's water should be a health source rather than a health hazard.

Mr. KERRY. Mr. President, today, the Senate will complete the task of working the people's will. Today we will tell the President in no uncertain terms that the Congress is not afraid to enact strong legislation—for which there is a clear consensus throughout the country—despite his wishes. In the last 6 years, Congress has been responsive to his requests and, in almost each case, upheld his veto. But now we are faced with a veto that indicates little thought, shallow logic, and misguided political opportunism. I feel confident that we will resoundingly reject this veto.

In rejecting this veto we will be enacting legislation that represents a great deal of work on the part of many diverse factions and many different ideologies. While this bill will continue the construction for the next several years, it will also start an innovative State Revolving Fund Program which will eventually replace the Direct Grant Program that has been an integral part of the Clean Water Act since it was originally enacted. The State Revolving Fund Program represents a compromise, but given our current fiscal situation, it is a compromise that we will be able to live with.

I am also pleased that this reauthorization makes significant progress in tightening up restrictions on polluters as well as providing funding to States for the purpose of reducing emissions by nonpoint sources.

Of particular importance to Massachusetts is a provision that will provide $100 million for the cleanup of Boston Harbor. This monumental task will take many years and considerable amounts of additional funding from different sources to complete, but it is crucial to the future of this important regional natural resource. By including this money in the Clean Water Act, Congress has indicated that the cleanup of the Boston Harbor is a serious national issue that warrants Federal Government participation. Without this funding, the Massachusetts water resources authority—the independent State agency charged with the cleanup—would have a considerably harder time.

I want to commend the many people who have labored exhaustively and persistently to make this reauthorization a reality.

Mr. THURMOND. Mr. President, because of our huge national deficit which exceeds $2 trillion, all Federal programs, notwithstanding their merit, need to be closely scrutinized by Congress to better ensure cost efficiency.

Last year I supported the legislation which is now before us. Earlier this year, I endorsed this legislation. I have not changed my view that this bill has merit and that its enactment would contribute to improving the quality of our environment. However, my endorsement of this legislation came prior to the availability of a viable, more cost-effective alternative which is what the Dole substitute legislation represents.

Last year when the Water Quality Act passed Congress, it was not anticipated that the budget deficit for fiscal year 1987 would exceed $170 billion. Estimates at that time targeted the fiscal year 1987 deficit at around $155 billion. The Dole substitute offered a strong commitment to Federal pollution control programs at a savings of approximately $6 billion.

In the midst of our national deficit crisis, we must make difficult decisions to reduce Federal spending. We should strive to get the most out of every Federal dollar we spend. If a balance can be achieved legislatively which will reduce Federal spending without eliminating our commitment to important Federal programs, it should merit our support. Accordingly, I intend to vote to sustain the President's veto of this legislation. If the veto is sustained, it is my understanding that a more cost-efficient bill will be introduced.

Mr. GLENN. Mr. President, I urge my colleagues to join me in voting to override the President's veto of the Water Quality Act of 1987. This legislation, the product of 4 years of careful, concerted effort by both Houses of Congress, continues our Nation's commitment to fishable and swimmable waters. We cannot delay any longer. States will be unable to carry out water quality control efforts without a new authorization bill.

The Water Quality Act establishes responsible requirements for the cleanup of our waterways and provides for the orderly transition of financing construction of wastewater treatment facilities to State governments. Enactment of this measure will be a great step forward toward ending the pollution of our Nation's waters. We cannot afford to sit idly by and see this vital legislation go down the White House drain.

This administration says that we cannot afford clean water, and the President warns that this bill will "bust the budget." I, too, firmly believe that we must make every effort to curb Federal expenditures where possible in these times of budget austerity. I do not believe, however, that we can afford to lessen our commitment to a clean environment. We all have a vested interest in clean water; there is simply no resource more vital to our individual and collective survival.

Mr. President, the clean water bill will enable us to move closer to our goal of a clean environment without sacrificing fiscal responsibility. This bill, while maintaining the Federal Government's commitment to cleaning up our Nation's waterways, redefines the future role of Government in financing the cleanups. Under it, States will receive about $2.25 billion annually in Federal grants for construction of sewage treatment systems. After 1990, the grant program will be replaced by State revolving loan funds, and will become fully self-supporting by 1995.

Passage of the Water Quality Act is essential for the improvement of the quality of life in the State of Ohio. I worked hard to preserve the House version of the construction grant formula because I firmly believe in the method it mandates for how the Federal funds will be dispersed. I do not believe that the Clean Water Act was designed to subsidize unlimited growth; rather, it was intended to remedy existing inadequacies in water treatment that threaten public health. The Senate formula would have transferred desperately needed grant resources from many of the States with the greatest water pollution problems to States with less urgent needs. Ohio would have lost $20 million annually under the Senate formula, significantly hindering our efforts to improve water quality in the Great Lakes region. Consequently, I am pleased with the agreement reached by the conference committee on the construction grants formula.

Another important provision of this bill for Ohio calls for a new program of stringent water quality-based controls on toxic hotspots clustered around major urban areas in the Northeast and Midwest. Several areas in Ohio have been tentatively identified as those that may remain unacceptably contaminated with toxic pollutants even after all industries have reduced their toxic discharges to a predetermined level, based on the best pollution control that is economically achievable. This bill ensures the development of individual control strategies to further limit pollution from source points, bringing water quality to the required standard.

The clean water bill also mandates a new program to be established by the Great Lakes National Program Office [GLNPO] to coordinate the cleanup of the Great Lakes. A report from the National Academy of Sciences has shown that the population of the Great Lakes basin has been exposed to appreciably more toxic substances than that of the United States as a whole, due in part to the consumption of contaminated fish from the area. This bill requires the establishment of a toxic monitoring and surveillance network for the lakes, and the development and coordination of a multiagency program for cleanup.

We must enact the clean water bill. It is a balanced, comprehensive, and cost-effective package. It is important to our economy and crucial to our environment. Enactment of this bill will ensure that generations of Americans will have clean and safe water to drink and bodies of water to enjoy as nature intended. It is an investment the people of this Nation want their Government to make. At this point I ask that a recent editorial taken from the Cleveland Plain Dealer in support of the Water Quality Act be printed in the Congressional Record. It emphasizes the importance of having this legislation enacted.

I strongly urge my colleagues to join me in voting to override the Presidential veto of the Water Quality Act of 1987.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Plain Dealer, Nov. 10, 1986]

President Acts Against Clean Water

President Reagan's pocket veto of the renewal of the Clean Water Act threatens to reach into the pockets of citizens for more money. The action also endangers public health and wildlife by limiting controls on water pollution. If the presidential rebuff was not surprising, it was nonetheless disturbing, both for the rejection of a good idea and for the stage-setting of a January confrontation between a determined Congress and an equally stubborn president.

After a lengthy stalemate over spending, Congress had passed—unanimously—a compromise bill. The result recognized that sewage treatment plants are needed. But it also made the point that localities should be weaned gradually from federal construction aid. The bill's passage was politically timely, coming less than three weeks before the election. But the Republican-controlled Senate delayed sending the bill to the White House for more than a week, setting back the deadline for presidential action. That allowed campaigning Republicans to brag about approving the bill, and gave Reagan until two days after the election to kill it.

The transparent trick backfired. Angered lawmakers, on both sides of Capitol Hill, have declared that they will reintroduce the same bill when the new Congress convenes. Considering the unanimous October vote, the bipartisan measure is sure to land quickly on Reagan's desk again. If the bill is unchanged, the sponsors must be ready to override another veto.

Or Congress could consider another course: Modify the staggering totals that prompted Reagan's opposition, and force a hard look at whether all the proposed projects really are necessary. Goldplating of facilities still lingers in the federal program, which started in 1972. The bill authorized $20 billion, of which $18 billion was for treatment plants and sewers, including two major interceptor projects in Cuyahoga County. The president wanted to spend just $6 billion.

But the higher amounts are not budget-busting, Minnesota Rep. Arlan Stangeland, a conservative Republican, wrote to colleagues. The bill phased out construction grants over a longer period than the president advocated, he said, and ensures that "we do not walk away from those that have been promised help and still need it." A cut in expected aid would prompt substantially higher sewer rates for Greater Cleveland residents, the Northeast Ohio Regional Sewer District has warned.

Because of the financial compromises and tighter environmental controls, which the public strongly supports, the fractious Congress came together on the bill. Even Lee Thomas, Reagan's environmental chief, switched from opposing legislation proposed earlier this year to urging Reagan to sign the final version. But to no avail.

Just a few weeks ago, Reagan reversed himself and signed a new Superfund bill to clean up toxic wastes. At that time the president declared, "The health and safety of Americans are among the highest priorities of government." The same argument applies to the Clean Water Act, which should be passed again, and signed into law.

Mr. BIDEN. Mr. President, enactment of the Water Quality Act of 1987 represents, in the strongest terms, a commitment by the Federal Government to clean up and protect a most valuable resource—the Nation's water. Through this bill, Congress sets the course into the next century for a comprehensive program to restore and protect thousands of rivers, lakes, and streams across the Nation.

We are at a crossroads in our commitment to achieving the goal of fishable, swimmable waters throughout the country. The choice that lays before us is just one of many that Congress and the American people will have to decide on in the next few years—what are we going to leave for our future generations? We have made a start in leaving our children cleaner waters, but the job is not complete.

We no longer see rivers catching on fire because they are so clogged with pollutants, and Americans have seen progress in bringing life back to lakes that were once declared dead. The worst cases are being dealt with, but there is more that needs to be done.

The choice we must make is whether to keep the commitment to cleaning up the Nation's waters, or to put it on hold, hoping to pick it up at some later time. This is the time in which we have to look at an effort, decide if it is working or worth continuing, and then allocate our limited resources accordingly. Congress is making the choice to continue the commitment to clean water not only out of a growing concern as to what we are leaving the Nation's children, but also in recognition of the fact that efforts to clean up the environment simply cannot be turned on and off. We cannot expect progress if the commitment is not made as part of a larger policy in support of cleaner waters, fresher air, and fewer toxic wastes in our ground. The quality in performance will not be there if a national dedication is not supported at the highest levels of the administration.

That is what makes the President's actions so disappointing. Although I have little doubt that the Senate will easily override the Presidential veto, I am concerned that the President's actions will start us down a road of constant battling with the administration over the terms and details of efforts to clean up the Nation's waters. A good policy will be chipped away, instead of being allowed to reach its potential. It will be a hollow victory.

The American people want passage of this bill to signal a continuation of the progress and experience that has been gained during the past decade. They do not want to witness a gutting of these important programs in the months and years ahead. I hope the President will join us, before implementation of the Act begins, in recognizing the important role played by the Clean Water Act in reaching the fishable, swimmable goal, and support these efforts at this crucial time of decison and action.

Mr. DURENBERGER. Mr. President, I rise to urge my colleagues to vote to override the veto of the Water Quality Act of 1987. With other members here today, I regret that we have come to this point in the legislative process. But since an override vote has been made necessary, I hope the Senate will make its continuing commitment to the protection of our Nation's water resources clear by overwhelmingly approving this bill.

There have been many hours of debate on this bill here on the floor of the Senate. And it took many years of committee effort to develop this bill. As a member of the Committee on Environment and Public Works and of the House-Senate conference committee on its predecessor in the 99th Congress, I have had many opportunities to speak to the merits of this bill. It is an important bill. It makes no retreat from the Federal commitment to clean water. The Water Quality Act extends the commitment to control industrial and municipal point sources of pollution into the future and for the first time addresses problems like nonpoint sources of pollution which have not been adequately controlled in the past.

As I look back over the many events—committee hearings, markups, floor sessions, and conference meetings—which have brought us to this point, I can recall some difficult moments. At one point the committee voted to strip the bill of its provisions on nonpoint pollution control. After additional hearings, one of which was in the farm country of northwestern Minnesota, we negotiated the nonpoint program which is included in the bill today. We have every expectation that this new program will make a significant contribution in fulfilling the promise of the Clean Water Act—fishable, swimmable waters for all Americans.

There was also a point in the 99th Congress when the committee voted to alter the allocation formula for the construction grants program in a way that would have signficantly disadvantaged the States in the Great Lakes region of the Nation. When this bill came to the floor of the Senate in July 1985, Members of the Senate from the Great Lakes region formed a coalition to make their concerns known to the Senate. As a result of those efforts and staunch resistance to any changes in the formula by members of the House conference committee, the old formula was virtually restored and the many small cities in my State and other States across the northern tier which have waited patiently for assistance in meeting the requirements of the Clean Water Act will be treated fairly by this bill.

Looking back—and despite those difficult moments—I must say that it has been a great pleasure for me to work on this effort under the leadership of the distinguished former chairman of our committee, Senator STAFFORD, and the Senator from Rhode Island, Senator CHAFEE. This bill is their legacy. It is the bill that they crafted through many years of effort. It is the bill that the Senate can pass with bipartisan pride and sense of accomplishment. I urge my colleagues in the Senate to take the last step today in the long effort to make this bill the law of the land.

Thank you, Mr. President.

Mr. RIEGLE. Mr. President, I rise today in support of the Clean Water Act of 1987. I am a cosponsor of this $20 billion measure to reauthorize and amend the Clean Water Act and I am anxious to see this first critical environmental bill of the 100th Congress signed into law.

Last year an identical bill was unanimously approved by the House and Senate and subsequently pocket-vetoed by President Reagan after the November elections. These overwhelming votes in support of the Clean Water Act by Congress send continuous messages to the President about the unwavering national support for this act which is supported by a wide range of groups including, environmental, State, industry, and labor unions.

Today's override of the President's veto is a great victory for the American people. This bill authorized $18 billion for grants to aid cities in the construction of sewage treatment plants. Under this formula, Michigan will receive an annual allotment of $104 million for wastewater treatment grants for 5 years. A $400 million State-Federal program will also be initiated to control polluted runoff from farmland and city streets. This bill also tightens controls on toxic pollutants and funds various other activities to clean up our Nation's waters. Altogether, $20 billion in spending is authorized under this bill through fiscal year 1994.

Of particular importance to Michigan are the provisions in this bill which strengthen Great Lakes protection. A Great Lakes National Program Office would be established within the Environmental Protection Agency to carry out our responsibilities under the United States-Canada Great Lakes Water Quality Agreement of 1978. That is critical. In addition, a Great Lakes Research Office within the National Oceanic and Atmospheric Administration would be created to develop an environmental research program and data base for the Great Lakes.

Also, the bill will address the problems of toxic pollutants in establishing a pilot program for toxic sediment removal from the Great Lakes and to study other problems in that area. This is designed to deal with what we call toxic hotspots, where large discharges of these materials have taken place. A mandatory process for the States and EPA to confront these toxic problems would be established.

This is a very positive day for this country in the overwhelming bipartisan vote to override the veto, to say, yes, we want and need and will have clean water. I think this is a great victory for the American people.

I thank the Chair.

Mr. LAUTENBERG. Mr. President, the vote before us today gives us a clear choice. Do we want to clean up this Nation's waters? Or do we want to buy false budgetary excuses for turning our backs on the environment?

The answer to this question is clear. We live in a nation with over $100 billion of sewage construction needs. My State of New Jersey alone has a $4 billion need.

The administration closes its eyes to these figures. It closes its eyes to the sewage being dumped into our rivers. To the pollution and degradation of our beaches. To the health threats to our citizens and marine life.

But the time has come to open our eyes. We must acknowledge that this bill is not a budget buster. It is a prudent downpayment on a major national problem.

This bill does not simply address the problems of specific States or regions. It boldly confronts the challenges facing the Nation—the whole Nation.

I urge my colleagues to cast a vote for our States, for our cities and towns, and for the environment. Vote to override this veto, and to enact a tough, new clean water program.

Mr. WEICKER. Mr. President, I, along with many of my colleagues, was disappointed that President Reagan chose to veto the Water Quality Act of 1987, the Nation's only comprehensive water control and management law. The legislation addresses critical issues such as estuary degradation, toxic hotspots, and nonpoint source pollution. Congress has twice shown the American people that this reauthorization of the Clean Water Act is solid, bipartisan legislation which will both improve our water quality programs and expand exising law to address future problems.

Since its passage in 1972, the Clean Water Act has brought about a marked improvement in the quality of this Nation's lakes, rivers, and marine waters. But while the Clean Water Act obviously works, there is still much to be done. About 30 percent of the rivers used for recreation and other activities do not meet minimum clean water standards. Almost 15 percent of our lakes are polluted and there are critical problems in many of our estuaries and nearshore areas.

Mr. President, most of us in Congress recognize the importance of this legislation and we are all aware of its provisions. Provisions that enable us to identify and control nonpoint source pollution. Provisions to establish a national estuary program to restore the quality of our estuarine and nearshore areas. Provisions to increase penalties for unpermitted discharges. In short, provisions that basically enable us to protect water quality and public health for this and future generations. The bill furthermore gives a clear statement of future Federal involvement in the Sewage Treatment Construction Grants Program and the eventual transfer of responsibility to the States.

The funding authorized by the bill is an investment that will be repaid by a cleaner environment. We cannot be shortsighted when it comes to legislation that will pave the way for our health and our children's health. Let us follow through and finish what we have started. I urge my colleagues to override the President's veto of one of this country's most important pieces of environmental legislation.

Mr. SIMPSON. Mr. President, the vote today to override the President's veto of the Clean Water Act has been discussed in some depth by the media and in these Halls of Congress, always quite dramatically I might add. Usually with a wry twist about "the end of this Presidency." Bosh! Each of us has a different interpretation of the symbolism involved in this vote. The most important thing to keep in mind is that this is only the beginning of the 100th Congress—and we can expect many more veto related votes to come. The President may not persevere in every instance, but he will surely be successful in halting the most blatant examples of congressional excess.

In order that we keep this vote in proper perspective, I would call attention to the statement made by my fine friend, Senator PETE DOMENICI, after the last clean water vote in the Senate where he pointed out so clearly that this legislation is an authorization not an appropriation. The real battle now will come over how much to spend on the Expensive Waste Water Construction Program that will occur when the appropriation is considered.

I do plan to vote for approval of the Clean Water Act—for I was a member of the conference committee and am quite familiar with the various provisions in the bill. The programmatic provisions that were ironed out over the long conference will provide enhanced protection of all the waters in this country. For the first time we have phased out direct Federal funding for sewer projects, so there is very much a deficit reduction element in the bill. In addition, for the first time we have authorized a "demonstration program" for the reduction on nonpoint pollution caused by runoff from farms and ranches—and it is not a full-blown regulatory program. We have strengthened enforcement requirements and standards while allowing EPA administrative flexibility in its regulatory approach. And at every step of the way we have ensured that Western water rights of prior appropriation are fully protected. For these reasons I feel the bill is a good one and ought to have our support.

While in support of the bill I also believe a few words of caution may be appropriate in the rush to dispose of this bipartisan legislation. Let us not forget that in the future Congress must pay much more attention to spending levels—even in authorization bills—because authorizations do set the tone for the determination of appropriation levels and this in turn influences the size of the deficit. I trust that we can all work together during the remainder of the session to make certain that programs are funded properly, but without providing excess dollars of largess that only fuel the deficit and damage the credibility of many other valuable programs.

I do look forward to seeing the fruits of our efforts on the Clean Water Act. We have made remarkable progress in this country in cleaning up polluted lakes and streams and in preserving our pristine waters. I share the desire of all of us in the Senate—to ensure that all our lakes and streams are fishable and swimmable at the time of expiration of this act. I trust it will be so.

Mr. ARMSTRONG. Mr. President, the Senate today will decide whether to override President Reagan's veto of the clean water bill. There is not a doubt in my mind that the Senate will vote to override the President's veto. Those who have spearheaded the drive to enact this bill into law have masterfully marshalled their arguments, outside coalition of supporters and supporting votes in Congress.

However, I shall vote to support the President's veto. I do so reluctantly. The scarcity of water, particularly the diminishing amount of clean water, has shaped my legislative views and approach to the proper Federal role in water management. Therefor I am doing all I can to protect State water rights from unfair Federal usurpation because a large Federal role will diminish, not nourish, water availability. I also support responsible efforts to build Federal, State, and local partnerships to preserve and store precious Western water.

With this in mind, I approached the debate about the clean water bill with a predisposition to support the legislation. I voted for it last year. Even the administration that vetoed the bill says the pending bill has merit, noting that this bill and the administration's bill contain substantially the same provisions. There is a great need in this country to properly treat water.

But we have other great needs in this country: alleviating poverty, feeding the poor, sheltering the illhoused, structuring sound national defense, researching the cause of cancer and genetic disorder, properly funding international aid, rebuilding our interstate transportation system, offering educational opportunity to the young and old. The list is endless. Each of these viewed in isolation is a pressing need of our society. But that is exactly what has happened over the years. Each need has been viewed in isolation. Congress all too often authorizes and appropriates funds for each program seen to address a need without a glimmer of an idea about how it is going to pay for the new spending. This tunnel vision is in part responsible for the great tragedy of a huge and overwhelming budget deficit that threatens the economic underpinnings of this nation.

The clean water bill before the Senate authorizes $18 billion in Federal grants and loans for the next 9 years. This is $12 billion more than initially requested by President Reagan. The President subsequently compromised, and doubled the size of his program to $12 billion. It may be the President has underfunded programs to treat water. But the fact remains that the President funded the clean water programs in the context of an overall budget that seeks to eliminate the budget deficit by 1992. Frankly, I think the President erred in sending to Congress a budget that does not meet the deficit reduction targets imposed by the Gramm-Rudman-Hollings law for the outyears. But if the President's budget does not meet the Gramm-Rudman-Hollings targets by allowing $12 billion in spending for clean water programs, the chances seem remote of meeting those targets with $18 billion more in clean water spending.

Mr. President, I note with interest that last year Congress with some fanfare adopted a budget that met the statutorily required deficit reduction target imposed by Gramm-Rudman of $154 billion. But today the deficit projected for this year exceeds $170 billion—all the more reason to adopt restraint in the consideration of pending legislation.

According to the President, the pending legislation would increase outlays by as much as $10 billion over the projections in his 1987 budget. The President notes that the Federal Government has already spent $44 billion to assist municipalities in meeting a need that was estimated to total $18 billion when the program was established in 1972.

This bill, while it authorizes an additional $18 billion in spending for clean water programs, is silent on how this spending is to be provided—whether we are to raise taxes, cut defense or other urgently needed domestic spending programs, or simply add to the burgeoning deficit.

So, Mr. President, viewed in isolation, this bill has merit. But when viewed in the overall context of reducing budget deficits and imposing a reasonable level of taxation on Americans, it is not clear the $18 billion version of this legislation merits adoption. So I shall vote to sustain the President's veto.

Mr. STAFFORD. Mr. President, I yield the remaining time on this side to the Republican leader.

The PRESIDING OFFICER. The Senator from Kansas is recognized for 4½ minutes.

Mr. DOLE. Mr. President, I came to the floor to turn the tide.

Let me say in as enthusiastic a way I can that we are very confident the veto will be sustained, but not on this bill.

My checking indicates that the veto will be overridden. I think that is unfortunate. I know a number of my colleagues on both sides have worked very hard on this bill. As I view it, most Senators consider this as last year's business. They feel they considered it last year when it passed last year by unanimous margins in both the House and the Senate. I think many of my colleagues feel that to change gears now and come down on the side of sustaining a veto would be, effect, counter to what they did just a few months ago on the Senate floor.

But I do believe the President makes a point. We can argue whether it should be authorized for 9 years or 1 year or 3 years, but we are talking about the $6 billion. The President is probably going to hold our feet to the fire when we get to deficit reduction, saying, "I do not think the Congress is serious, because the first crack out of the box, I offered $12 billion and they insisted on $18 billion; that is a $6 billion gap."

We offered a substitute when the bill was before us and got 17 votes, which is probably a high-water mark on the votes, more than we are going to have today. But I say that the substitute, in my view, was a good piece of legislation, all the projects were there. It did not spend out quite as quickly, probably cost a bit more for local communities. I must say we have tried very hard. We circulated a letter yesterday saying if we can get 33 Senators, would you be 34? We thought maybe that would work, rather than trying to find 34. But it did not work. We got 12, maybe 15, maybe 20.

That does not mean the President is wrong. I think it means that in this case, minds were made up, as I said, last year and people are persuaded to stick with what they felt was true last year. But keep in mind that the deficit will be a bigger problem this year than it was last year. We have to take that into account.

Last year, we did not have a substitute. We have to take that into account. We also have to keep in mind that the President is now willing to spend about $12 billion. We have spent $7 billion since 1972 to clean up what was supposed to be an $18 billion problem. We are all for clean water. I have not had anybody come to me and say, "I want to sustain the veto because I do not think we ought to do anything." That is not the case. I hope our vote to sustain the President's veto would not be so interpreted.

I suggest that this matter has been debated. I congratulate those who have spent hours and weeks and weeks on the bill and in the conference and who have come forth with the product that we are again considering. Today we have an opportunity to go on record for deficit reduction. If you go on record on this bill for deficit reduction, it is going to make it a lot easier as we look down the road in the next few months to work out, hopefully in some bipartisan way, a meaningful deficit reduction package.

Mr. President, I ask that a comparison of the Dole substitute and H.R. 1 be included at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WATER QUALITY ACT OF 1987

H.R. 1	The Dole substitute
Title II—Wastetreatment grants:	
1. Authorized $18 billion through 1994 to finance the construction of municipal wastetreatment facilities.	1. Authorizes $12 billion through 1993 to help finance the construction of municipal wastetreatment facilities.
2. Authorized State revolving funds, capitalized with Federal funds, to continue the Wastetreatment Grant Program.	2. Authorizes State discretionary use of wastetreatment funds as loans repayable to States to administer program.
3. Authorized 5 special projects within State annual allotments and 5 special projects in addition to normal grant program.	3. Same.
4. (No provision.)	4. States are authorized (not mandated) to use from 3.5 percent to 10.8 percent of their allotment to implement nonpoint source controls.

WATER QUALITY ACT OF 1987—Continued

H.R. 1	The Dole substitute
Title III—Standards and enforcement:	
1. Nonpoint source programs are authorized at $400 million through 1991.	1. No separate program authorized.
2. $100 million for clean lakes; Estuary Grant Program is established with 75 percent Federal share.	2. Same.
3. Stormwater runoff requirements under current law are modified to ease the burden on municipal and industrial dischargers.	3. Same.
4. New industrial compliance deadlines, water quality standards programs and conditions for variances from Federal limitations are established.	4. Same.
5. Amendments to current law to improve State permit programs, allow coal remining, and establish antibacksliding policies are included.	5. Same.
6. Enforcement provisions are updated and expanded similar to other Federal laws. Administrative penalties are added to current law.	6. Same.
7. Adds citizen suit provisions allowing individuals to initiate enforcement action.	7. Same.
8. Reauthorizes existing programs such as Great Lakes, Chesapeake Bay at current or higher levels.	8. Same.

1985 administration bill	H R 1	The Dole substitute	Advantages of the Dole substitute
1 Construction grants:			
a Eligibility Restricts funding to phased or segmented projects and eliminates Governor's discretion to request that EPA allow up to 20% of a State's allotment to be used to fund treatment works otherwise ineligible for funding. Eliminates special funding authorization ($200M) for combined sewer overflows (CSOs).	The Governor's discretionary fund is retained. In addition, nonpoint source and groundwater projects can be financed through this provision. The 20% cap is removed for Chicago's TARP project. The special funding authorization for CSOs is retained.	Retains current eligibilities, but eliminates Governors 20% discretionary fund. Also eliminates special funding for CSOs. Funds must first be used to address deadlines, requirements, and goals of the Act	Targets Federal funds on projects with greatest environmental benefits.
b Set-asides: Eliminates minimal allotments (CWA Sec. 205(e)) and set-asides for rural areas, water quality management, and innovative and alternative technologies.	Rural set-aside, providing alternatives to conventional treatment for small communities, is raised from 4% to 4-7½%. Set-aside for innovative/alternative projects is continued at 4-7½%. The 205(g) and (j) management and planning grants are also retained. A new set-aside is created for marine CSOs and estuarine projects (1-1.5%), for nonpoint source control/groundwater (1%), and for Indian Tribes (1.2%).	Eliminates minimal allotments and set-asides for rural areas and innovative/alternative technologies, a new set-aside for Indian Tribes included in H.R. 1 is added, but all other new H.R. 1 set-asides are excluded.	Targets Federal funds toward enforceable requirements of the Clean Water Act, emphasizing meeting the 1988 deadline.
c. Allotment formula: Allotment formula based on each state's applicable share of the cost of eligible phased/segmented projects.	New allotment formula for 1987-90 is based on EPA's needs survey.	Same as H.R. 1.	
d Special projects: (None)	Within allotment formula: (1) Avalon, CA, (2) Walker and Smithfield Townships, PA, (3) Taylor Mill, KY, (4) Nevada Co., CA, (4) Wanaque, NJ, (5) Lena, IL. Outside allotment formula: (1) Boston Harbor: $100M, (2) Des Moines: $50M, (3) San Diego, (4) Oakwood Beach and Red Hook, NY: $7M, (5) San Diego wastewater reclamation: $2M.	Same as H.R. 1.	
e. Federal share: (None)	Projects grandfathered at 75% federal share limited to 55% grants beginning in FY 90. Projects under judicial injunction and two PA projects are eligible for 75% grants.	Projects grandfathered at 75% federal share limited to 55% grants beginning in FY 90. Otherwise, federal share remains at 55% for both grants and loans.	
2 Loans programs:			
a Eligibilities (No provision.)	Regular construction grants eligibilities, plus new eligibility for nonpoint source and groundwater programs and the new National Estuary Program. First use of funds is limited to projects needed to comply with enforceable CWA provisions.	Grant eligibilities also apply to loans until all CWA deadlines, goals and requirements have been met. Then any sewage-related project within the definition of CWA Sec. 212 is eligible.	
b Capitalization grant agreement (No provision.)	EPA and the states may enter into capitalization grant agreements. States must agree to accept payments under a schedule developed with EPA and must provide a 20% match.	No grant agreements are required, but States must still provide a 20% initial match.	Authorizes the use of funds as loans but does not require States to establish elaborate, new institutional mechanisms such as State banks to implement. Nature of loan repayments left to States.
c Discretionary deposits (No provision.)	A state may use up to 50% of its construction grant allotment to capitalize its State Revolving Fund (SRF) in 1987, 75% in 1988 and 100% thereafter.	A state may use all its allotment to make loans if it chooses to do so.	No ceiling is placed on the amount of loans, giving States maximum flexibility.
d Payment schedule (No provision.)	Payments must be made in quarterly installments, and no later than the earlier of 8 quarters after the date the funds were obligated by the state or 12 quarters after the funds were allotted to the state.	Same payment rate as would occur under the current grant program.	Eliminates principal disadvantage of loan programs—the instant outlay increase—by limiting payments to the traditional schedule.
3. Nonpoint source programs (inc. groundwater): (No provision.)	Provides $400M in 60% grants over the 1988-91 period of which up to $30M (in 50% grants) can be spent to protect groundwater quality. Subject to EPA approval, within 18 months states must identify waters that don't meet ambient standards due to NPS pollution and prepare a management plan. These plans must describe implementation of controls over the next 4 years.	A discretionary program, administered by the States funded through the wastetreatment grant allotment. All sensitive land use use decisions are retained at State/local levels. Authorized percentages of total grant funding levels increase from 3.5% in 1988 to 10.8% in 1991 and translate into $400M total funding over the period.	Gives States full program discretion over sensitive land use decisions. No Federal approvals of State decisions. No State decisions are subjected to Federal hindsight. Places minimum administrative burden. No reports to EPA required. Lowers outlay impact of new program by folding it into wastetreatment grants, but increases the certainty of funding availability.

1985 administration bill	H.R. 1	The Dole substitute	Advantages of the Dole substitute
Authorization Levels for grant/loans and nonpoint source programs: 1986, $2.4 1987, $1.8 1988, $1.2 1989, $0.6 1990, $0.0 1991 1992 1993 1994 Total, $6.0	Grants/loans [NPS]: 1986, $2.48 1987, $2.4 [0.1] 1988, $2.4 [0.1] 1989, $2.4 [0.1] 1990, $2.4 [0.1] 1991, $2.4 [0.1] 1992, $1.8 1993, $1.2 1994, $0.6 Total, $18.0 [$0.4]	1986, $1.88 1987, $2.0 1988, $2.0 1989, $1.9 1990, $1.6 1991, $1.2 1992, $1.0 1993, $0.5 1994, $0.0 Total, $12.0	Saves $6B while fully satisfying the Federal commitment to complete the program.
Outlay levels for grant/loan and nonpoint source programs: 1986, $3.1 1987, $2.7 1988, $2.4 1989, $2.2 1990, $1.8 1991, $1.3 1992, $0.9 1993, $0.6 1994, $0.4 Total, $15.4	1986, $3.1 1987, $2.8 1988, $2.5 1989, $2.8 1990, $3.1 1991, $3.1 1992, $3.2 1993, $3.0 1994, $2.1 Total, $25.7	1986, $3.1 1987, $2.7 1988, $2.3 1989, $2.3 1990, $2.3 1991, $2.1 1992, $1.8 1993, $1.6 1994, $1.3 Total, $19.5	The Dole Substitute saves over $6B in outlays through 1994 for the treatment grant/loan and nonpoint source programs.
4. Clean lakes programs: (No provision.)	Besides the $30M per year authorization under Sec. 314 of the Clean Water Act, $40M is provided for 10 demonstration projects and an additional $15M is authorized for mitigating acidity in lakes.	Same as H.R. 1.	
5. Estuaries: a. National Estuary Program: (No provision.)	Provides $60M in 75% grants over the 1987–91 period to develop conservation and management plans. (SRFs may also be used for this purpose).	Same as H.R. 1.	
6. Stormwater: Exempts from permit requirements dischargers composed entirely of stormwater from residential, commercial, or other non-industrial site unless the site is a significant source of pollution.	Moratorium on permit requirements for commercial, residential and small municipal stormwater dischargers until 10/92. By 10/88 EPA must promulgate regulations for industrial facilities and municipalities over 250,000 pop., with applications due by 10/89 and permits issued by 10/90. By 10/90 EPA must promulgate regulations for municipalities with 100,000–250,000 pop., with applications due by 10/91 and permits by 10/92. Report to Congress on control measures for sources covered by the moratorium due in 10/89.	Same as H.R. 1	
7. BAT/BCT compliance deadline extension: Generally within 3 years after promulgation of regulations, inc. those involving innovative technology.	Within 3 years after promulgation of regulations, but not later than March 31, 1989.	Same as H.R. 1	
8. Post-BAT water quality based effluent limitations: (No provision.)	Within 2 years of enactment, states must identify waters that will not meet water quality standards due to toxics, next identify each point source discharging toxics, and then submit a control plan to EPA for approval/disapproval. The plan must achieve the applicable water quality standard within 3 years. If a State fails to submit a plan, EPA must develop one for the State.	Same as H.R. 1	
9. Fundamentally different factors variances: Same as current law—cost can be used as a factor in granting variances. EPA would also be given authority to charge fees for processing and reviewing applications.	Specifically excludes consideration of costs, independent of other eligible factors, as a basis for establishing a fundamental difference with regard to an individual facility. When an eligible factor (e.g., age of facility) is under review, EPA may consider the costs associated with that factor, but must be able to justify a finding of fundamental difference on the basis of eligible factors. Also includes Administration fee proposal.	Same as H.R. 1	
10. Permit term: Provides 10 year maximum term for permits. A ten year permit may be reopened when more stringent national regulations are instituted.	Five year term—same as current law.	Same as H.R. 1	

1985 administration bill	H.R. 1	The Dole substitute	Advantages of the Dole substitute
Coal remining:			
EPA or an approved NPDES State is authorized to modify the existing requirements for dischargers from coal remining operations which pre-existed the commencement of remining.	States issuing permits for new coal mining operations at old mines must use BAT applied on a case-by-case basis, using best professional judgement. Discharge levels may not exceed levels before remining. There must be potential for improvement in water quality.	Same as H.R. 1.	
12. Partial NPDES Program: (No provision.)	Partial delegation of NPDES program permitted if states take over a major category and make an effort to assume the entire program. States cannot return to EPA parts of the program already delegated.	Same as H.R. 1.	
13. Antibacksliding: (No provision.)	A renewed or reissued permit shall not contain less stringent effluent limitations than the previous permit.	Same as H.R. 1.	
14. Enforcement:			
a. Administrative orders: clarifies EPA authority to issue.	(No provision.)	(No provision.)	
b. Emergency orders: authorizes issuance.			
c. Criminal penalties: Sets maximum penalty of $50k/day/violation or up to 3 years imprisonment, or both, for "knowing".	Maximum penalties per day of violation vary by type of violation and are doubled for repeat offenders. Maximum for first offense is shown in the table below: Negligent Violations $25k 1 yr. Knowing Violations $50K 3 yrs. Knowing Endangerment $250K 15 yrs.	Same as H.R. 1.	
d. Civil penalties: Increases maximum penalty per day of violation from $10K to $25K.	Similar to Administration bill.	Same as H.R. 1.	
e. Administrative penalties: Establishes new authority for this type of penalty. Sets maximum fines of $10K per day per violation and $125K per enforcement action.	New authority with a two-tiered penalty process. The first tier provides for a maximum fine of $25K per enforcement action under an informal process. The second tier is subject to a maximum penalty limit of $125K under an Administrative Procedures Act hearing process. EPA issues these fines under Sec. 404 for violations for State-issued 404 permits. EPA and Army are to develop a MOU to deal with unpermitted discharges.	Same as H.R. 1.	
15. Permits for ocean discharges: Waivers under Sec. 301(h) shall require at least primary or equivalent treatment (except less treatment required for small or remote dischargers). A source introducing waste into marine waters shall be compliance with all applicable pretreatment requirements. For waivers of secondary treatment for a POTW, no permit shall authorize the discharge of any pollutant into saline estuarine waters that: Receive pollutant loadings from multiple sources. Do not support a balanced indigenous population of shellfish, fish and wildlife. Do not allow recreational activities in or on the waters. Exhibit ambient water quality standards adopted for the protection of drinking water, shellfish, fish or recreational activities. These requirements shall apply whether or not there is a causal relationship. The amendments shall not apply to 301(h) modifications made final on or before 10/1/86, nor to the renewal of such modifications.	Dischargers of pollutants into ocean waters must not interfere, alone or in combination with pollutants from other sources, with the attainment of required water quality. Requires POTWs serving populations of 50,000 or more to have a pretreatment program that will give the equivalent of secondary removal for any toxic introduced by an industrial customer when there are no existing pretreatment standards for such pollutants. Primary or equivalent treatment is required. Adequate mixing required before additional discharges. No discharge into waters that do not already have a balanced indigenous population of marine life, regardless of cause. Marine waters providing dilution must not contain significant amounts of previously discharged effluent from such treatment works.	Same as H.R. 1.	
16. Small Flows Clearinghouse: (No provision.)	Out of restricted construction grants funds, EPA is to make a $1M grant for a clearinghouse on small flows and I/A technologies.	Same as H.R. 1.	

1985 administration bill	H.R. 1	The Dole substitute	Advantages of the Dole substitute
17. Sewage sludge: The determination of the manner of disposal or use of sludge is deemed a local prerogative except that EPA guidelines have been established except in accordance with such guidelines.	Adopts Administration language except that regulations substitute for guidelines. EPA must issue two sets of regulations that set numerical limitations for toxics in sludge. The first set is ue by 9/87, the other by 6/88. If numerical limits are feasible, EPA may promulgate management practices or operational standards. A $5M sludge demonstration program is authorized.	Same as H.R. 1.	
18. Removal credits: (No provision.)	Prior to NRDC v. EPA (1986), an industrial facility could apply for relaxed effluent limitations based on the ability of a treatment plant to remove pollutants in the influent. The conference bill stays the court order until 9/87 for POTWs previously granted removal credits for having a pending application.	Same as H.R. 1.	
19. Great Lakes Program: (No provision.)	Establishes a Great Lakes National Program Office within EPA. Authorized at $11M/yr. through 1991. Five year plan to be developed to reduce nutrients in the Great Lakes. Five year study and demonstration projects to be undertaken to control and remove pollutants in the Great Lakes. Within 30 days after each fiscal year, EPA is to submit a report to Congress on progress and planned efforts for succeeding fiscal year. A new Great Lakes Research Office within is established NOAA.	Same as H.R. 1.	
20. Citizen suits: In the case of citizen suits under the Clean Water Act, copies of the complaints shall be provided to both the Attorney General of the U.S. and EPA. Proposed consent judgments must be provided to the same two parties with 45 days allowed for their review and possible challenge. No judgment in any citizen suit action where the U.S. is not a party shall be binding on the U.S.	Would allow citizen suits to proceed even when EPA has commenced and is prosecuting an administrative penalty action. Does not explicitly state that judgments in citizen suits are not binding on the U.S.	Same as H.R. 1.	
21. Entry/inspection: Confirms authority for authorized contractors to enter, take samples, and have access to records. Penalties provided for unauthorized disclosure.	Similar to Administration bill.	Same as H.R. 1.	
22. Marine sanitation devices: States are authorized to regulate the discharge of sewage from vessels of 65' in length or less. Interstate travel of such vessels is permitted without requiring additional equipment.	Allows States to impose more stringent imposed by the Federal Government than those with respect to the design, manufacture, installation, or use of a MSD on a houseboat used primarily for residence. States are authorized to enforce federal standards for all vessels.	Same as H.R. 1.	
23. North Marianas Islands: Treated as a State under the CWA.	Same as Administration bill.	Same as H.R. 1.	
24. Munitions: Munitions expended in the course of conventional weapons testing or training exercises of the U.S. Armed Forces of its Allies in joint training exercises are exempted from the definition of pollutants controlled by the Act.	(No provision.)	Same as H.R. 1.	
25. New source performance standards: "New source" is defined as any source, the construction of which is commenced after the publication of final regulations prescribing a standard of performance under Sec. 306(a)(2) or Sec. 307(c) which is applicable to such source.	(No provision.)	Same as H.R. 1.	
26. Conflict of interest: Any State board or body which permit applications or enforcement orders shall have at least a majority of its members who represent the public interest and do not derive a significant portion of their income from permit holders, permit applicants, or persons subject to enforcement orders. Provisions are made for recusing.	(No provision.)	Same as H.R. 1.	
27. Commerce Department report to Congress: Section 6 of the Clean Water Act is repealed which requires the Secretary of Commerce to report annually to Congress on the international trade impacts of water pollution control expenditures.	(No provision.)	Same as H.R. 1.	
28. Judicial review: (No provision.)	Any person who commented on a proposed administrative penalty can seek judicial review of the penalty.	Same as H.R. 1.	

Mr. DOLE. I yield back the remainder of my time.

Mr. MITCHELL. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. ADAMS). All time is yielded back. The question is, shall the bill pass, the objections of the President of the United States to the contrary notwithstanding? The yeas and nays are required. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted: Yeas 86, nays 14, as follows:

[Rollcall Vote No. 19 Leg.]

YEAS—86

Adams
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Domenici
Durenberger
Evans
Ford
Fowler
Glenn
Gore
Graham
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Hollings
Humphrey
Inouye
Johnston
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
McCain
McConnell
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Trible
Warner
Weicker
Wilson
Wirth
Zorinsky

NAYS—14

Armstrong
Cochran
Dole
Exon
Garn
Gramm
Helms
Kassebaum
Lugar
McClure
Nickles
Symms
Thurmond
Wallop

The PRESIDING OFFICER. On this vote, the yeas are 86 and the nays are 14. Two-thirds of the Senators present and voting having voted in the affirmative, the bill, on reconsideration, is passed, the objections of the President of the United States to the contrary notwithstanding.

Mr. BYRD. May we have order?

The PRESIDING OFFICER. The Chair will remind the occupants of the gallery that they are guests of the Senate. Please, no demonstrations or other comments.

Mr. BURDICK. Mr. President, I move to reconsider the vote.

Mr. BYRD. A motion to reconsider is not in order.

The PRESIDING OFFICER. The motion to reconsider is not in order.

The majority leader.

HOUSE DEBATE ON OVERRIDING VETO OF H.R. 1

February 3, 1987
(Congressional Record, vol. 133, daily ed., H515-H526)

WATER QUALITY ACT OF 1987—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. [illegible]-26)

The SPEAKER pro tempore (Mr. KILDEE). The unfinished business is the further consideration of the veto message of the President of the United States on the bill (H.R. 1) to amend the Federal Water Pollution Control Act to provide for the renewal of the quality of the Nation's waters, and for other purposes.

The question is, will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

The gentleman from New Jersey [Mr. HOWARD] is recognized for 1 hour.

GENERAL LEAVE

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this debate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. HOWARD. Mr. Speaker, I yield 30 minutes to the ranking member of the Committee on Public Works and Transportation, the gentleman from Arkansas [Mr. HAMMERSCHMIDT] for purposes of debate only; and pending that, Mr. Speaker, I yield myself such time as I may consume.

(Mr. HOWARD asked and was given permission to revise and extend his remarks.)

Mr. HOWARD. Mr. Speaker, it is truly regrettable that we have reached the point of a veto override. I believe everyone in this body would have preferred to have the President join us in support of the fight against water pollution and against degradation of the environment. We would have been delighted to work cooperatively with the President. Unfortunately, cooperation has been made impossible.

It should be made clear that this is not a confrontation that was sought by the House. H.R. 1, the bill before us today for the veto override, is the product of a long and difficult conference between the House and the Senate which had a Republican majority at the time. The bill that we sent to the President in November and the bill we passed again on January 8 was $6 billion below the original House version. We compromised, the Senate compromised, but the President would not compromise.

This bill is not a wild spending spree by a spendthrift Congress. It is based on hard, solid evidence of the need to fight water pollution. It was the adminstration's own study that showed that more than $100 billion will be necessary by the year 2000 to meet the Nation's sewage treatment needs. Now the President tells us we can't spend one-sixth of the amount his own Environmental Protection Agency said was necessary. I am sure many of you have heard from your own States how much money they need.

We would be irresponsible if we did not enact this legislation. We cannot ignore the water pollution needs that have been documented by the President's own EPA.We cannot go back to our State and local officials and tell them, "Sorry, you're on your own meeting the standards that we mandated." We cannot go back to our people and tell them, "Sorry, you have to wait for clean water." We should act clearly and decisively to let the President know there is bipartisan support to fight water pollution.

There was nothing partisan about this bill from its inception until it reached the President's desk. It was approved unanimously in the Subcommittee on Water Resources, it was approved unanimously in the Committee on Public Works and Transportation and in two separate votes this body supported it 814 to 8. When the Senate had a Republican majority, it approved the bill 96 to 0. This year, the vote was 93 to 6.

Clean water is not a partisan issue and the construction of sewage treatment plants is not partisan. No amount of name calling in a veto message will change that. This is an environmental issue and the American people want us to act. They want clean water, not excuses and bickering.

We were accused of pork-barrel and spending boondoggles. Is it pork-barrel to authorize $100 million over 5 years to clean up Boston Harbor but not pork-barrel to request $6 billion in 1 year to research one star wars weapon as the President wants? Is it a spending boondoggle to authorize $2.25 billion annually in grants and loans for sewage treatment plants but not a spending boondoggle to propose $19 billion in 1 year in foreign aid as the President wants?

All the evidence shows that we should be spending more than $2.25 billion a year for clean water. We have a job to get done. But we compromised to produce a bill that has the support of industry, labor, the environmental community, and State and local officials. We all worked to develop a clean water bill that would help stop water pollution. We sent the President a clean water bill to do that, but we got a partisan ideological statement in return.

When President Reagan came into office, we were spending $5 billion a year on the Clean Water Program. At his insistence, it was cut to $2.4 billion. We also raised the local share from 25 percent to 45 percent—a sizable percentage that compares favorably with any other Federal program. If it is true that local contributions eliminate unneeded, expensive projects, as the administration has often said, then this program meets that test.

Of the $18 billion through fiscal year 1994 for sewage treatment plants, $8.4 billion is in the form of loans for local governments. The bill requires the creation of State revolving loan funds with a 20-percent State share for this new program. Loans, revolving loan funds, local payments—these are the concepts that must be developed to meet the growing infrastructure demands of the Nation and this bill includes them. This is not the traditional open-ended grant program—it is an innovative, forward-looking bill. Failure to enact the bill will set our environmental program back years by delaying the implementation of these innovations. Hundreds of miles of rivers, lakes, and streams will remain polluted if we fail to act.

This bill is emphatically not pork-barrel. It's a good bill—one that authorizes money to fight pollution which is truly a worthwhile cause. The $18 billion that offends the President is to be distributed by a formula that is specified in the bill with each State getting an amount based on its needs. The State governments set the priority lists which must then be approved by EPA. It's not pork-barrel. It's checks and balances and a Federal-State partnership that reflects the way our Government should work.

We've heard many times from the President how the State governments are the bulwark of the Federal system—how the Federal Government has usurped their powers. This program allows the State governments to set the priorities on how the money is going to be spent. The States have told us they have massive sewage treatment needs and they are waiting for their 1987 appropriations.

It hasn't been the Congress that sought this confrontation. We have taken a moderate approach toward meeting the environmental needs of the Nation. These are needs that won't disappear without sewage treatment plants. There is dirty, polluted water in many communities in this Nation that won't disappear by itself. If we don't spend this money now, it will cost us more in the long run.

The issue is the kind of world we live in and the condition of the world we leave to our children. Can we tell them that the greatest, most powerful Nation in the history of this planet couldn't afford clean water? Can we tell our children that we had more important priorities than clean water? We can and should spend $2.25 billion for clean water in this Nation and be proud that we're doing it.

I urge my colleagues to vote for this bill once again, just as you did on January 8. The President made a mistake in vetoing it and it's up to us to correct that mistake. This is an issue of the quality of life of this Nation. Let's vote for clean water, for the health and environment of our citizens and override the veto.

□ 1255

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, once again I rise in support of the Water Quality Act of 1987 by urging support of the motion to override the President's veto. This is virtually the same bill we passed last October.

It is with considerable regret that I support this override action, because President Reagan has provided great leadership in the important reforms that have been made in the Clean Water Act. He has demonstrated an unswerving commitment to the elimination of waste in this and in Federal programs generally, and I join him in his fierce determination to reduce the Federal deficit.

As I read President Reagan's veto message, I was struck with an uncanny sense of deja vu. His was essentially the same message, outlining the same objections to a clean water bill, as that given by President Nixon when he vetoed the historic Clean Water Act of 1972.

In fact, the whole scenario is basically the same. Throughout the entire process, the 1972 act had strong congressional support, and eventually, both Houses voted to override the President's veto, just as this Congress is poised to do.

I remember it well because I was a Member of the House when that action occurred and a member of the Public Works Committee, which drafted and reported the 1972 act.

Frankly, I find it bewildering that after all this time and after all the progress made under the 1972 act and all the support given the program by the American people, Congress is still unable to reach agreement with the President of the needed financial commitment to get the job done.

Clean water is essential to life itself, and it is the most precious legacy that this Congress can leave to future generations. The cost of human survival can hardly be measured in dollars and cents. We cannot afford to go bargain hunting on the issue of clean water, at the same time, I recognize that we cannot afford to allow any waste of our limited financial resources.

Actually, our differences with the administration over construction grants funding are not great. We are essentially arguing over $6 billion spread over almost a decade—the difference between H.R. 1's funding level of $18 billon and the administration's proposed $12 billion. Since the $6 billion is spread over 9 years, what we are really talking about is an annual expenditure of about $650 million. It seems a shame that Congress must take such a drastic step of overriding a Presidential veto over that amount of money in a program with such great needs.

I do think it is important to note that administration objections to the bill's funding levels for the Construction Grants Program miss a very important point. Even though the 1972 Clean Water Act called for fishable and swimmable water quality by mid-1983, we still have not reached that goal, and even what we are providing in H.R. 1 will not be enough to meet the demand nationwide for wastewater treatment.

This bill has been scrutinized as few bills ever has been. In fact, funding levels are lower than the bill passed overwhelmingly by the House last year. These levels are reasonable, fiscally responsible, and workable.

Regardless of the funding provided, the Federal enforcement mechanisms remain in place, and communities will be required to meet strict treatment deadlines. Consequently, in my judgment, it is unfair to force communities to meet these deadlines while taking away the money they need in order to comply.

Actually we are giving the President what he wants in the Construction Grants Program, in that we are phasing the program out and turning responsibility back to the States. We end the construction grants in 4 years and the State Revolving Loan Program, which replaces the Grant Program, in 9 years.

We should not overlook the fact that the American people have consistently expressed their support for the Clean Water Act and the funding levels provided for the Clean Water Program by Congress. Moreover, all concerned interest groups and government at all levels are publicly on board in support of this bill. It also enjoys the support of both Republicans and Democrats.

I take little joy in the fact that once again Congress must take the lead in doing the job of cleaning up the Nation's water. However, it is imperative that the environmental commitment to the American people is kept, and I am confident that we will do so.

Mr. Speaker, I yield 6 minutes to the distinguished minority leader of the House, the gentleman from Illinois [Mr. MICHEL].

(Mr. MICHEL asked and was given permission to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, although I voted for the clean water bill, I would like to urge my colleagues today to join me in sustaining the President's veto of it.

My position is not as contradictory as it may first seem. My vote for the bill was my way of saying, "Yes, I am for clean water too—who isn't?" I recognize and strongly support the need for national commitment in this area. It was my way, I guess, of telling the administration that they were a day late and a dollar short on helping to craft a compromise. But the President made his decision to veto, and that changes the complexion of the situation, at least for this Member.

We can ask again: How much should we spend, and how should we spend it?

The clean water bill, like everything else that comes before us these days, must be judged not only in terms of what it seeks to do, but in what it costs taxpayers to do it.

There is an environmental consensus in this country. It embraces conservatives and liberals, Democrats and Republicans. It seeks to preserve and rationally use our environmental heritage.

But there is also an equally strong budget consensus to see to it that the policy goals that we seek are reached by wise and prudent use of tax dollars.

That is the issue before us today—not whether we will spend tax dollars for clean water, but, rather, what is the prudent balance to be struck between tax-dollar expenditure and policy goals.

The President says that we can do better. I suspect we can. If we can do better, then we ought to.

By way of a brief review, the Clean Water Act Construction Grant Program, which this legislation funds, is a classic example of how a well-intentioned, short-term program ballooned into open-ended, long-term commitments costing billions of dollars more than anticipated or needed. Since 1972 the Federal Government has helped fund the construction of local sewage treatment facilities, and I might add that I recall that debate very vividly where there were marked differences on both sides as to what our obligation was at the Federal level and the amounts and all the rest. It was a matter that historically and properly was the responsibility of State and local governments up to that time. The Federal Government's first spending in this area was intended to be a short-term effort to assist in financing the backlog of facilities needed at the time to meet the original Clean Water Act requirements.

When the program started, the cost of the commitment to the Federal taxpayers was estimated at $18 billion. To day we have put $47 billion appropriated funds into the program. Now H.R. 1 proposes to put still another $18 billion of taxpayers' money into the program.

□ 1305

Despite all this, only 67 percent of all municipalities have actually completed the construction needed to comply with the Clean Water Act pollution limits. On the other hand, nonmunicipal treatment systems, which have received no Federal funding, have completed 94 percent of the construction needed for compliance with Federal pollution standards.

The President, in his veto message, predicted that he would be overridden today, but he also said "It is time we did the right thing—all of us—regardless of the political fallout."

He went on to remind us that when he delivered his State of the Union Message right here in this Chamber, the Congress all rose up in unanimous applause when he declared from the Speaker's podium that the "U.S. budget deficit was unacceptable and outrageous." And everyone rose on their feet and applauded and applauded.

The President has also referred to boondoggles in this bill. Well, there is no shocking one in here, which just came to my attention, which should cause all Illinois Members outside of Chicago to sustain the veto.

It seems that a provision was included in conference last year which waives for Illinois the requirement in the law that not more than 20 percent of a State's waste treatment allocation can go to any one project.

The result is that a project in Chicago called Tunnel and Reservoir Project [TARP] is scheduled to receive 75 percent of my State's allocation this year, and 100 percent next year. That means that virtually all the other communities in the State including several in my district, are being left to hang out to dry as the June 1988 compliance date fast approaches.

Because of some sweetheart deal what we have here is a bill that is more damaging to the rest of my home State of Illinois outside of the city of Chicago than the continuing resolution under which we are currently operating.

This is a glaring example of the damaging results that occur when we are forced, as we were in the first week of this session, to accept en toto legislation which the committee imposed on us without any chance for thorough deliberation or the opportunity to offer amendments; under a closed rule.

The President vetoed this bill out of a concern for the costs of the program, and I am going to vote to sustain the veto because I share his concern over excessive spending at a time of high deficits, and because this bill is worse than current law for my constituents in central Illinois.

Mr. HOWARD. Mr. Speaker, I would like to state that all the time I shall yield shall be for purposes of debate only, and I yield 4 minutes to the gentleman from New Jersey [Mr. ROE].

(Mr. ROE asked and was given permission to revise and extend his remarks.)

Mr. ROE. Mr. Speaker, it reminds me of a response that I have seen around lately, and it says, "Here we go again." If there has ever been a bill, as was pointed out by the distinguished Representative from Arkansas, that has been gone over thoroughly in every detail for 3 years, it has taken us to write this bill.

This bill has passed this House two or three times; passed the Senate two or three times; and it passed by overwhelming majorities, almost unanimously. The report around, this is a budget buster—but let me say to the Members of the House, those of you here and those that may be looking on their TV, getting ready to vote, what is the health of the American people worth? What truly are the priorities in America?

In the final analysis, without water, clean, safe water, you cannot sustain yourself more than a day or two. Here we are talking about all of the expenses of the country and the things we have to do, which we are concerned about on budget requirements, but the fundamental basic factor is that the water supply of this country is crucial to life itself.

Now if we are going to set priorities, and we are talking about all the money we are going to be sending in foreign aid and all the other things we are doing around here, it seems to me that the American people are looking for the proper quality of life, and the health of themselves and their children.

Mr. Speaker, we went home and we ran for reelection or election. All the Members of the House were up for election and a third of the Senate. This issue was a debate in those elections, and the American people spoke. They spoke this past November again, on every list that has been taken and every debate that has been held, and every poll: Clean, safe water supply, toxic waste getting into our water supply was No. 1 on every one of those polls.

We have been back to our people; we have spoken with our people; we came back here and the first order of the day was H.R. 1. H.R. 1 was to revoke the clean water bill. We voted it again, 408 to 8. Democrats and Republicans lined up in a coalition to get this done, because it is critical to the people of this country. The people of this Nation have already spoken; not once, not twice—thrice on this particular piece of legislation which is critical to our people.

They use the word pork barrel and they use the word boondoggle. The boondoggle is if you do not get it in your own State, then you can declare it a boondoggle. If you do not get it in your State, you can say it is porkbarrel in somebody else's State. I think that whole argument is ridiculous.

Let me conclude for our Members on this point: The Congress of the United States, this administration and previous administrations have made commitments to the American people and the commitment they made to the American people, we laid down a law, we laid down a time, and we said in 1988 that every municipal plant in this country had until 1988 to put in their secondary treatment and their secondary plant. That is being worked on. We will never make that goal unless we do it now.

When all is said and done, Mr. Speaker, as the 100th Congress carries out its work, it seems to me that what is important to the American people are the priorities of the American people first; the health of the American people is critical to this country; and those are the issues that are foremost in our minds.

Therefore, I would urge all of our colleagues to again vote overwhelmingly to override this veto.

Mr. HOWARD. Mr. Speaker, I yield 1 minute to the chairman of our Subcommittee on Water Resources, the gentleman from New York [Mr. NOWAK].

(Mr. NOWAK asked and was given permission to revise and extend his remarks.)

Mr. NOWAK. Mr. Speaker, I am pleased to rise in support of H.R. 1, the Water Quality Act of 1987, and to urge my collegues to overwhelmingly join with me to override the President's veto of this legislation.

Despite the unanimous support for this legislation in the 99th Congress, and the overwhelming support given to it in the 100th Congress, we must now vote to approve this legislation this final time to assure that this bill becomes law.

H.R. 1 is a continuation of our commitment to the cleanup and maintenance of our Nation's waters. The bill reauthorizes the Construction Grants Program to provide $9.6 billion over 5 year through 1990 and provides $8.4 billion over the 6 years from 1989 through 1994 to establish State revolving loan funds. These State revolving funds, together with the construction grant authorizations, will enable municipal water pollution control needs to be met within a reasonable time.

The bill also contains a provision establishing a procedure for the Environmental Protection Agency to address the problem of toxic hot spots. EPA will require pollution controls beyond those associated with installation of best available technology to reduce and eliminate these toxic hot spots.

Other important provisions of the bill, and of particular importance to me, relate to the monitoring and control of pollution in the Great Lakes. These provisions would designate EPA's Great Lakes Program Office as the lead agency responsible for United States compliance with the United States-Canada water quality agreement. It would require EPA to establish a toxics monitoring and surveillance network for the Great Lakes and develop a multiagency program for cleanup. The legislation would begin the cleanup of the Buffalo River as a demonstration of ways to address removal of sediments contaminated by toxic pollutants.

The bill establishes a national policy that programs for the control of nonpoint sources of pollution be developed and implemented in an expeditious manner. Since as much as 50 percent of the pollution in our waters is estimated to be caused by nonpoint sources, it is imperative that this pollution be adressed promptly.

Mr. Speaker, the President says this bill is to expensive—it is not. In fact it falls far short of EPA's own estimates of what is needed to complete the cleanup work we have begun. The President calls the bill a blank check—it is not. It provides for the orderly phase out of Federal spending to fund municipal treatment works.

This bill is a responsible and effective measure to achieve and preserve the quality of our waters. I urge my colleagues to support it unanimously.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 4 minutes to the distinguished ranking member of the Subcommittee on Water Resources of the Committee on Public Works and Transportation, the gentleman from Minnesota [Mr. STANGELAND].

(Mr. STANGELAND asked and was given permission to revise and extend his remarks.)

Mr. STANGELAND. Mr. Speaker, it is with mixed emotion that I rise in support of overriding the President's veto of H.R. 1, the Water Quality Act of 1987.

On the one hand, I unequivocally support the legislation before us as a sound and compassionate bill that will greatly improve our ability to clean up our water resources in a fiscally sound manner. On the other hand, I am greatly disappointed that we are forced to do so by overriding the President's veto.

I believe President Reagan has listened to the wrong advice on clean water. Much to my disappointment, he has chosen to veto legislation that would make giant strides in cleaning up and protecting our Nation's lakes, streams, rivers, and bays. Admittedly, his choice was one of priorities. Congress must now let him know that clean water is a top priority of this Nation and should be a top priority of his administration.

President Reagan has now refused to sign this bill on two separate occasions, objecting primarily to funding levels, despite the fact that it passed each time overwhelmingly in the House and Senate. The bill was crafted by our Subcommittee on Water Resources, the Committee on Public Works and Transportation, and the conference committee during lengthy and deliberate legislative sessions spanning several years. Virtually every governmental, citizen, and interest group that has expressed an opinion on this bill has supported it.

For these reasons, I did all in my power to increase the bill's support in the White House during the 99th Congress' final days. In addition to meeting with White House officials, I wrote to the President, urging him to sign the bill, and sent him a petition containing the signatures of over 400 Members of Congress who shared my views.

Since the beginning of the 100th Congress, I have made passage of H.R. 1, the Water Quality Act of 1987, my highest legislative priority. Fortunately, the House and Senate recently completed this unfinished business of the 99th Congress, passing the bill by a combined vote of 499 to 14 in early January. The bill, virtually unchanged from last year, then went on a round trip from the Capitol to the White House and back.

Arguments in support of the bill have not lessened since November 1986; if anything, they have grown more compelling. With the passing of each month, our waters get dirtier and our municipalities face greater risk of losing the construction season in which to build or improve sewage treatment plants. While I share the President's enthusiasm for budgetary restraint and fiscal responsibility, I believe we must honor the Federal commitment to help construct wastewater treatment projects mandated under the act and to improve the quality of America's lakes, streams, rivers, and bays. H.R. 1 is not a "budget buster"; it is a fiscally conservative multiyear investment in clean water.

The Seventh District, the State of Minnesota, and the entire Nation will benefit from this legislation's funding and regulatory provisions. H.R. 1 authorizes $18 billion through fiscal year 1994 for the Nation's current sewer construction program and a new program to provide capitalization grants for State-run revolving loan funds. For Minnesota, this would mean almost $45 million a year through fiscal year 1990. An additional $40 million is authorized for projects to improve water quality in several specifically named lakes, including Sauk Lake in Stearns County, MN. The bill also provides for increased Federal funding to Little Falls, MN, for the activated biofilter feature of its treatment works. Just as importantly, H.R. 1 contains major new provisions to control pollution from storm water runoff and toxic contamination in the Great Lakes—all crucial issues to Minnesota.

With all its provisions, however, the bill does not lose sight of principles consistently espoused by the Reagan administration, such as "New Federalism" and fiscal conservatism. Under H.R. 1, the Federal Government will eventually transfer many pollution control responsibilities to State and local governments, but only after providing adequate technical assistance and funding. Finally, while its overall stated price tag is $20 billion, the bill represents a bare minimum of spending by the Federal Government. EPA's own estimate of the total need for wastewater treatment, based on their 1984 biennial survey, exceeds $100 billion—five times the amount in H.R. 1.

H.R. 1 fully deserves the President's signature. And yet, he continues to oppose it even though it phases out the Construction Grants Program, contains a modest—not exorbitant—funding level, and improves EPA's enforcement authorities. Mr. Reagan could have signed the bill, modified significantly during the conference negotiations with the Senate, and claimed victory.

Contrary to the administration's latest claims, the legislation before us today does not authorize excessive spending, contain needless Federal programs or "boondoggles," or establish a Federal land use program in the guise of nonpoint source pollution control. H.R. 1's funding levels, projects, and programs are based on real needs—discerned from years of reports and testimony. The administration's initial funding proposal of $6 billion was woefully inadequate, while the most recent compromise offer of $12 billion was "too little, too late." In addition, H.R. 1's nonpoint source provisions were never intended to and—as long as I have a say—will never result in unnecessary Federal intrusions on local decisionmaking about land use, zoning and agricultural practices. New section 319 of the act will increase the Federal Government's attention to nonpoint source pollution, but will not deny States the wide discretion they need to develop their own approaches to site specific problems.

Mr. Speaker, I would be remiss if I didn't point out to my colleagues that the President's claims espoused in his veto message are hauntingly familiar to objections raised in another President's veto message of clean water legislation 15 years ago. Like the 92d Congress which swiftly overrode the veto of the 1972 Clean Water Act, the 100th Congress must today override the veto of the 1987 Clean Water Act Amendments. We must reject these same, old arguments and get on with the new business at hand.

Furthermore, we must not allow this issue to become politicized. Our commitment to cleaning up our precious water resoruces has had a strong bipartisan basis in this body since the Congress first addressed this important need. This bill before us reflects that widespread support. Members on my side of the aisle have a great deal to be proud of in H.R. 1—in terms of its fiscal sensibility and environmental commitment. This bill is as much ours as it is anyone's.

Mr. Speaker, I urge each Member of Congress to vote in support of H.R. 1. This body needs to send a strong message to the President and the American people that we will not tolerate further delay in the cleanup of our Nation's waters. We need to tell the Nation where our priorities lie. We must respectfully inform the President that, while deficit reduction is important, a veto of the clean water bill is "penny wise and pound foolish."

□ 1315

The SPEAKER pro tempore (Mr. KILDEE). The gentleman from Arkansas [Mr. HAMMERSCHMIDT] has 15 minutes remaining and the gentleman from New Jersey [Mr. HOWARD] has 20 minutes remaining.

Mr. HOWARD. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. ANDERSON].

(Mr. ANDERSON asked and was given permission to revise and extend his remarks.)

Mr. ANDERSON. Mr. Speaker, I rise in strong support of this motion to override the Presidential veto of H.R. 1, the Water Quality Act of 1987.

In a nutshell, this important environmental protection legislation continues strict national water pollution control standards and authorizes funds over the next 8 years to State and local governments to build and improve sewage treatment plants. It is supported by the environmental community, industry and State and local government organizations.

As you know, Mr. Speaker, this measure is the same one which has already been passed by the Congress twice before, by a combined vote of 1,003 to 14. Needless to say, with overwhelming, bipartisan support such as this, many of us were shocked and disappointed to learn that this President followed down the same road as President Nixon did in 1972 when he vetoed the original Clean Water Act. We, of course, overrode that veto and since then have made great progress in meeting the act's objectives to "restore and maintain the chemical, physical and biological integrity of the Nation's waters." Not only have we prevented further deterioration of water quality at the national level, many waterways have recovered to the point that fish have returned after many year's absence and swimming beaches have reopened.

Should we follow the President's recommendation and veto this clean water bill, we will return to those dark days where our oceans, rivers, lakes, streams, estuaries and wetlands are so overly choked with sediment, poisons and other toxic pollutants that they are considered a public health threat.

Let's continue to move forward and restore America's water. Vote to override the Presidential veto of this strong environmental protection legislation.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. CONTE], the distinguished and able ranking member of the Committee on Appropriations.

(Mr. CONTE asked and was given permission to revise and extend his remarks.)

Mr. CONTE. I thank the gentleman from Arkansas.

Mr. Speaker, 1 year after I came to Congress, the House was in a similar position to that which we are in today.

Back in 1960, President Eisenhower had vetoed a bill which would have increased Federal expenditures to combat water pollution. Then, as now, I was faced with a difficult question: Should I vote against a President of my own party?

Then, as now, I have concluded that I will vote to override the President's veto.

In his veto message in 1960, President Eisenhower made many of the same arguments President Reagan makes today. "The bill is too expensive. State and local governments should assume more responsibility for cleaning up the Nation's rivers and streams. This bill has too many special interest projects in it."

Mr. Speaker, H.R. 1 is a necessary, important piece of legislation. It has traveled a long way to where we are now. The House first passed this bill 18 months ago, and local communities can wait no longer for the relief promised by this legislation.

A new program created in H.R. 1—control of nonpoint sources of pollution—will solve a serious problem in my district: runoff from farmlands. One town in my district has undrinkable water precisely because of nonpoint sources of pollution.

This bill offers that town and others just like it across the country some relief. We can't wait anymore.

One of the most important responsibilities of government is the protection of the welfare of its people.

To those who say we cannot afford to have this bill, I say, as I said in 1960, we can't afford not to have it.

Now, Mr. Speaker, back in 1960, President Eisenhower's veto was sustained in the House—unfortunately.

Do not let history repeat itself today. Vote to override the President's veto.

I might mention to the Members of the House that even though the Committee on Appropriations in the last large continuing resolution appropriated money for clean water, we did that under the proviso that this bill be passed, otherwise those appropriations cannot go to the cities and towns of this country.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. Dannemeyer].

(Mr. DANNEMEYER asked and was given permission to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, I rise in support of a sense of fiscal responsibility. Five hundred and thirty-six of us set spending for the Nation; 535 in Congress and one person in the White House.

That one person, trying to balance the divergent interests, to establish and appropriate spending level for this needed program, last year said to the Congress, "Appropriate $6 billion."

Congress did something other than that. This year the President suggested $12 billion, doubling the ante. Congress responded again by upping again and saying, "We will give you $18 billion, Mr. President."

The President has exhibited the courage to say to Congress, I believe this is an irrational and unreasonable response to a legitimate need in this Nation's history."

Mr. Speaker, I commend the committee for the work they have done. Most of the programs should be authorized at some point. A lot of these programs should never be authorized. On balance, the total spending should be closer to what the President has suggested than what is in this bill.

This bill also points out very succinctly a problem that is at the bottom of runaway Federal spending in America. During these 5 years of this President's presidency, he has made requests of Congress for levels of spending. The Congress in each of those 5 years has responded. Would you believe that in total for those 5 years we have appropriated $64 billion less for defense, $6 billion less for Medicare, $11.8 billion less for Social Security; net interest, $6.6 billion less. For everything else, which are mostly social programs, many of which are needed for this country's well-being, we have appropriated $229 billion more than President Reagan has asked to be spent.

This place is where it stops. We are the responsible agency for the runaway spending in this country. I commend President Reagan for the judgment he is exhibiting today.

□ 1325

Mr. HOWARD. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. Mineta].

(Mr. MINETA asked and was given permission to revise and extend his remarks.)

Mr. MINETA. Mr. Speaker, I rise in strong support of this important effort to override the President's veto of the Clean Water Act. The people of this country expect us to pass this legislation without delay, and I am delighted that we are acting expeditiously and firmly.

I want to congratulate the gentlemen from New Jersey, my good friends Bob Roe and Jim Howard, for their leadership and guidance on this effort.

The President believes that $18 billion is too much to spend for cleaning up our rivers and streams over an 8-year period. Yet, what he wants to spend on defense for just 1 year—1988—is 17 times as much as what we want to spend for clean water in 8 years.

The President's veto of this legislation has demonstrated what many of us have known for some time: that this administration does not care about our environment. In fact, the gentleman from New Jersey [Mr. Howard] who ably chairs the Public Works and Transportation Committee did not get the administration's bill until the morning this bill came to the floor of this body.

The Clean Water Act is truly national in scope. But I would like to briefly mention just one aspect of the bill to help explain why it is so important.

This bill includes one of the last projects in which I had the honor or

working with our late wonderful colleague, Sala Burton, on a program dear to her heart and mine. This legislation requires the Environmental Protection Agency to give priority status to dealing with the dangerous toxics in San Francisco Bay.

Sala Burton worked very hard on this provision because it would help protect and preserve the bay she loved so well.

For this reason, and for many others, the people of the San Francisco Bay area, and indeed the whole Nation, want this Clean Water Act enacted and fully funded by the Congress. Please join this Member in supporting the Clean Water Act and the override of the President's veto.

Mr. HOWARD. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. VISCLOSKY].

(Mr. VISCLOSKY asked and was given permission to revise and extend his remarks).

Mr. VISCLOSKY. Mr. Speaker, I rise in strong support of the Clean Water Act and ask that my colleagues in the House vote to override President Reagan's veto of this most important measure.

The Clean Water Act is important to our country because it is designed to clean our Nation's waterways and provide sewer construction grants to municipalities for new projects. It also **contains provisions to rid the Great Lakes of toxic pollutants.**

Finally, this legislation will favorably impact the domestic steel industry.

At my request, David J. Cantor, a specialist in industry economics at the Library of Congress prepared a memorandum on the possible effects of spending on water and sewer projects on the demand for steel.

In his report, Mr. Cantor noted:

> Depending on the type of project, the expenditure of $1 billion could generate a demand for steel mill products in the range from about 58,750 tons to about 161,500 tons. This demand represents both the direct input of steel into the project and associated indirect input—namely, those that are embodied in other equipment and materials used in the project. The estimates for each project category are presented in table 1.
>
> TABLE 1.—POSSIBLE EFFECT OF SPENDING $1 BILLION ON WATER AND SEWER PROJECTS ON STEEL DEMAND
>
> [In tons]
>
> | Project category | Steel input low estimate | Steel input high estimate |
> |---|---|---|
> | New water supply systems | 113.774 | 151,699 |
> | New sewer systems | 108.514 | 144,685 |
> | Maintenance and repair of water supply systems | 121,089 | 161,452 |
> | Maintenance and repair of sewer supply systems | 58,767 | 78,356 |
>
> Estimated by CRS, using as sources: U.S. Dept. of Commerce, Bureau of Economic Analysis. The Detailed Input-Output Structure of the U.S. Economy, 1977. Volume I: The Use and Make of Commodities by Industries, 1977. Washington, 1984; U.S. Dept. of Commerce, Bureau of Economic Analysis. The Detailed Input-Output Structure of the U.S. Economy, 1977. Volume II: Total Requirements for Commodities and Industries, 1977. Washington, 1984; and, Data Resources, Incorporated. Realized Steel Prices: Estimation, Analysis, Forecast. Lexington, 1925.
>
> The greatest impact on steel demand would probably be in the category of maintenance and repair of water supply systems. An expenditure of $1 billion on such projects could result in increased use of steel in the range from about 121,000 tons to about 161,500 tons. The smallest effect of this level of spending would probably be in the category of maintenance and repair of sewer systems. For every billion dollars of additional expenditure on such projects, steel input could range from about 58,750 tons to about 78,400 tons. New water supply systems and new sewer systems rank second and third in terms of their possible effects on steel demand.
>
> The direct input of steel into water and sewer projects is relatively small for every billion dollars of expenditure. This steel is used directly in the construction activity, rather than being processed into some other product utilized in the project. Maintenance and repair of water supply systems would employ more steel mill products directly than other types of water and sewer projects; the low estimate of direct steel usage is about 44,300 tons, and the high estimate is about 59,000 tons. Direct steel input is smallest in maintenance and repair of sewer systems; the low estimate is about 3,700 tons, and the high estimate is about 5,000 tons. New water supply systems would use between 12,000 and 16,000 tons; and new sewer systems would utilize between 16,700 and 22,300 tons. Depending on the type of project the direct steel input to water and sewer systems is as little as one-fifteenth of total steel input (maintenance and repair of sewer systems), and nearly as much as one-third of total steel input (maintenance and repair of water supply systems).

While the data seen to suggest that the total amount of steel embodied directly or indirectly in water and sewer projects is relatively small, the official input-output tables for the economy indicate that the effect of expenditures on water and sewer projects on total steel demand is greater than for any other sector of the economy. That is, for every dollar spent on such projects, more steel is required as an input—directly and indirectly—than for any other good or service. While most of this input is embodied in other goods and services rather than directly in the project itself, the impact on the basic steel industry is substantial vis-a-vis any other sector of the economy.

Although in relative terms, little steel would be required in constructing a water or sewer project we cannot dismiss as minimal the impact of such projects on the steel industry. First the steel industry ranks relatively high as a supplier of goods and services to water and sewer projects: steel was the 13th largest direct input to new water projects in 1977, the last year for which figures are available and the 8th largest input to maintenance and repair of water projects in that year.

Second, and perhaps most important, even though little steel is used directly in water and sewer projects, the indirect use of steel is considerable. No other sector in 1977, was called upon more for total input than the basic steel industry.

While caution should be exercised in

the use of the estimates provided, there is no question that the passage of the Clean Water Act would not only have a positive impact on our environment, but it would also provide desparately needed help to the beleaguered steel industry.

I strongly urge my colleagues to join with me today in voting to override President Reagan's veto.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. SOLOMON], a former member of the Committee on Public Works and Transportation.

Mr. SOLOMON. Mr. Speaker, as strange as it may seem, I stand here before you today because I happen to think that President Ronald Reagan is one of the greatest Presidents this country has ever had. I guess I have supported him more than most Members of this House, as much as any other Member.

But I rise in support of the override of the veto of this vitally important legislation for a couple of reasons. One is to refute the idea that local governments should take on this responsibility.

I happen to represent over 200 miles of the majestic Hudson River in New York State that has hundreds of miles of tributaries and lakes that empty into that majestic lake. We have some municipalities that have been able to take advantage of the Clean Water Act in the past, and they have cleaned up their sewage.

We have other municipalities that come from rural areas that have no tax base, no money, and they cannot be expected to bear the total burden of correcting the pollution that goes into this major waterway.

That is the main reason that I stand here today supporting it.

The other is that I am a fiscal conservative, and I vote against most legislation when it is over the budget, but in this particular case, we are spending money to save money in the long run. We have already spent billions of dollars preserving this environment and I commend the gentlemen from New Jersey, both of them, and the gentleman from Arkansas, and their staffs, for the outstanding job they have done in bringing this legislation before this body.

It is vitally needed and I would urge everyone, even of the conservative political persuasion, as myself, to support this legislation. America needs it.

Mr. HOWARD. Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas [Mr. ALEXANDER].

(Mr. ALEXANDER asked and was given permission to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, since the Industrial Revolution, many cities and States have neglected the need to clean up the effluent from the Nation's production, thus converting many of our rivers and streams into sewers and poisoning water that must be used by human beings. The Clean Water Act of 1987 is an essential measure in our quest to make America's waters safe for fishing, recreation, and drinking.

In some areas of the Nation, pollution has caused the soil and water to become contaminated by carcinogenic materials, leading to noticeably higher rates of death from cancer in those regions. This legislation is a major advance toward the goal of providing greater safety for the public through the eventual elimination of pollutants from America's waterways.

This bill will reauthorize and strengthen the landmark Federal Water Pollution Control Act of 1972, better known as the Clean Water Act. It contains a provision authorizing $18 billion over 8 years for building sewage treatment plants, as well as a variety of other constructive measures for battling pollution.

Mr. Speaker, this bill will provide badly needed Federal funding to help municipalities finance their local sewage treatment construction. A major innovation of this bill is the establishment of the State revolving loan fund, which will be highly beneficial for Arkansas, and for the municipalities in the First District that I represent.

The State revolving loan fund will provide low-interest loans to communities in need of sewage treatment systems. The repayments of the loans will later be used to make new loans, giving a self-sustaining source of funds for States to finance local water treatment construction.

There are now about 3,330 treatment plants in America that violate existing Clean Water Act requirements by providing little or no sewage treatment. It is futile for Congress to require necessary water quality goals if municipalities lack the funds needed to assist them in meeting these standards. This bill provides a solution to the problem: For the short term, the Congress will appropriate Federal funds to keep water treatment projects on track, while establishing the self-sustaining fund that the States will use in the future to meet wastewater standards on their own.

Another positive feature of this bill is its provision for providing $400 million to help States control nonpoint source pollution—such as runoff from streets, parking lots or fields. Current law generally controls only pollution that comes from a specific source, such as pipes or sewers.

In thus dealing with nonpoint source pollution the bill is attacking a problem that accounts for up to half of the water pollution in some areas of the country.

The Clean Water Act also has a series of other amendments designed to strengthen America's effort to clean up the Nation's surface waters and make them suitable for fishing and swimming.

It will set new restrictions on discharges into waters where there are already high concentrations of toxic chemicals. Other amendments will regulate municipal and industrial stormwater discharges into the waterways and will require controls on surface runoff from city streets and agricultural areas. I am particularly aware of the significance of the latter provision, because of the great importance of agricultural areas in my district.

Mr. Speaker, I am pleased to note that in addition to its vital effort to protect our people from contaminated water, the bill will also be beneficial for economic growth in Arkansas and in the First District, because the sewage construction projects will provide jobs and stimulate local economies. The sewage treatment plants will be one important component in developing the infrastructure of local areas.

Many communities across the country face difficulties in promoting economic growth because they cannot meet the sewage treatment requirements set by the Federal Government. By helping them to meet those standards, this legislation will not only protect our water resources, but will enhance the Nation's economic growth.

Throughout the 1980's, there has been vigorous public support for clean water. For example, a public opinion survey by Louis Harris in 1982 indicated that 94 percent of the American people believed that "the Clean Water Act should be kept as it is or made even stricter," and more recent polls have reflected similar findings. The bill has received enthusiastic support from a broad spectrum of groups, including environmentalists, industry, labor unions and State and local governments.

The Clean Water Act has widespread bipartisan support, having passed House and Senate by overwhelming margins in 1986 and again this year.

Mr. Speaker, my home district in Arkansas is blessed with many beautiful streams, lakes, and rivers. This legislation is vital in the campaign to ensure that those waterways and others like them throughout America never become wastelands choked by pollutants. It is time to clean up the waterways, so that future generations will have the same opportunity to enjoy our waters that we still enjoy today.

Today, we can make an investment in America's future. I urge my colleagues to override the veto, because the task of cleaning up our environment will become vastly more expensive if we fail to act now, and burden our grandchildren with an inheritance of ugly and polluted waters.

Mr. HOWARD. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. ROWLAND].

(Mr. ROWLAND of Georgia asked and was given permission to revise and extend his remarks.)

Mr. ROWLAND of Georgia. Mr. Speaker, President Reagan has described this bill as a "budget buster." This is neither accurate nor fair.

In reality, the issue is one of priorities. Those of us who helped write this bill are just as determined as he to meet our budget reduction targets. And as he and his budget advisers should know, there are ways to do this without severely weakening our 15-year effort to achieve clean water resources and without breaking our longstanding commitment to help local governments meet federally mandated clean water requirements.

The fact is that the bill he vetoed is a financially modest bill that promises to continue the progress we have been making toward our long range clean water goals.

With the help of many people, especially the Georgia Department of Natural Resources and the Association of State and Interstate Water Pollution Control Administrators, I drafted and introduced the stormwater runoff program which is included in the measure. This is a landmark proposal. Efforts have been made for many years to get a Stormwater Control Program into the Clean Water Act. These efforts have always become bogged down in disagreements between conflicting interests. The Stormwater Control Program we are considering today, however, has the support of just about everyone—environmentalists, local governments, industrial and agricultural interests. It's reasonable, but it also has teeth.

I have wondered, Mr. Speaker, whether the administration fully understands the potential consequences of its veto. Without these stormwater runoff provisions, the Environmental Protection Agency will be under a Federal court order to adopt stormwater regulations which may require thousands of cities and counties to obtain separate permits for every single one of their stormwater discharge points—and there are millions of them.

Every one of those permits would require an engineering study and exhaustive paperwork. It would cost a medium-size city like Macon, GA, in my own Eighth District of Georgia, many millions of dollars to comply. It would be financially devastating to many of our local governments.

On the fact of it, this would seem to be unenforceable. But, in fact, the courts might insist that it be enforced. And if that happened, local governments would have to take steps to comply or face the heavy penalties already spelled out in the Clean Water Act for noncompliance.

This is the situation that the President's veto has left us in, and one of the principal reasons why I believe Congress has no choice but to override. When this bill becomes law, a carefully crafted Stormwater Control Program will go into effect with provisions that will allow communities to obtain far less costly single jurisdictionwide permits.

The State revolving loan fund is another portion of the bill which I am proud to have helped draft. It proposes to do exactly what the administration has always advocated—to get the business of upgrading sewage treatment facilities to meet Federal standards back into the hands of State and local governments.

It is a plan which will provide ongoing capitalization of publicly owned treatment works while assuring long range deficit reduction.

And yet, when the administration offered its own revolving loan fund proposal, so much redtape was attached to it that it is unlikely local governments would ever be able to rely on it. For reasons which are difficult to understand, the administration has been standing in the way of the very thing it supposedly espouses—State and local control.

The Clean Water Act before the House today is financially feasible and technically sound. It is, in fact, essential to the country's efforts to maintain and improve the quality of the Nation's waters.

I, personally, want to express my appreciation for the brilliant leadership of our chairman, Mr. HOWARD, and the outstanding work of the chairman of the Water Resources Subcommittee, Mr. ROE; as well as to the members of the committee from both parties, and the conferees with whom I served from both sides of the Capitol. The bill is the result of very hard and skillful work on the part of many people, and I feel privileged to have been a part of it.

Mr. HUGHES. Mr. Speaker, I rise in support of overriding the President's veto of H.R. 1, the Clean Water Act reauthorization.

I do so with some regret, because I share the President's desire to reduce unnecessary and wasteful Federal spending. Unfortunately, this bill does not fall into any such category.

This is a bill that meets an urgent national need and enjoys overwhelming bipartisan support. It should not be characterized as either partisan or pork barrel.

The bill was approved unanimously by both the Democratic House and the Republican Senate at the close of the last Congress, only to be pocket vetoed by the President. More recently, it was repassed by the Senate with just six dissenting votes, and the House with just eight dissenting votes. This history clearly indicates that H.R. 1 is not a Democratic bill nor a Republican bill. It is a consensus measure. It is a nonpartisan effort that was carefully targetted at meeting an urgent national priority: To clean up our Nation's rivers, lakes, and streams.

Moreover, the $18 million authorized by this bill over the next 8 years is just a fraction of what is needed to help keep the filth out of our water supplies. It is nowhere near enough to do the job. That money must be spread out over 50 States and 8 years.

Rather than being spendthrift, this Congress has been absolutely stingy in funding efforts to clean up the environment. We could easily spend billions more, but we have not because we are all painfully aware of the need to make every tax dollar count.

That is what we have done with this bill.

The bill authorizes $9.6 billion through fiscal 1990 for grants to construct sewage treatment plants, and creates a new revolving loan fund of $8.4 billion during fiscal 1989–94 to help local governments finance sewage treatment facilities.

These authorizations are not gifts to the States. Under the grant program, the Federal share of a project's cost cannot exceed 55 percent. State and local governments must pay the remainder. The revolving loan fund must include a 20-percent State contribution. These funds, of course, must be repaid and loans cannot be made in the first place unless the local government has set aside a specific revenue source to finance the repayment.

Further, the bill includes a requirement that funds be used to bring existing sewer systems up to par—not to encourage and subsidize development by stringing new sewer lines out into new subdivisions.

In addition to sewage treatment, the bill targets an additional $2 billion for various pollution control programs, including $400 million over the next 4 years to control nonpoint source pollution such as agricultural runoff. It establishes a new estuary program to protect various threatened areas, including the Delaware Bay. Also, in addition to tightening various compliance deadlines, this bill greatly increases the maximum penalties for polluters.

In summary, Mr. Speaker, this is a very carefully balanced bill. It is a frugal bill. It is a bill that reflects a near-unanimous national view that cleaning up our water supplies is of critical importance. I urge my colleagues to support this override.

Mr. BONKER. Mr. Speaker, today the House of Representatives can send a clear message to the President and the American people—protecting our lakes, streams, and waterways is not an afterthought, it is a critical national priority.

When President Reagan pocket vetoed the $20 billion Clean Water Act reauthorization at the end of last year, he frustrated the overwhelming majority of Congress and the American people.

I am pleased, therefore, that the first major act of the 100th Congress was passage of H.R. 1, the Water Quality Act of 1987. The bill authorizes $18 billion over 9 years for sewage treatment systems and $2 billion for other programs to clean up the Nation's lakes, rivers, streams, and estuaries.

Unfortunately, in what I consider to be gross insensivity, the White House characterized this investment in clean water as a pork barrel boondogle unworthy of Federal support.

Today's veto override vote should dispel any misunderstanding about the broad, bipartisan support for this legislation and confirm our commitment to clean water. As Democratic and Republican leaders alike have stressed, the President stands alone on this issue; most Members of both parties strongly support this bill.

In my own State of Washington, Federal support is vitally needed for a comprehensive effort to clean up Puget Sound and numerous fresh-water streams and lakes. This legislation will make available more than $42 million for Washington State clean water programs this year, and approximately $220 million through 1990. The State plans to invest some $119 over 6 years to clean up the Puget Sound basin, providing an equitable balance of State and Federal commitments.

By way of background, this legislation reauthorizes and strengthens the Clean Water Act of 1972, one of the Nation's most successful environmental programs. In addition to providing funding for construction of sewage treatment facilities and beefing up clean water standards for industries, the bill targets one of the most significant, and most elusive, causes of water pollution: nonpoint source pollution from poor forestry and farming practices, city streets, mines, and the like.

Specifically, the Water Quality Act of 1987 provides for the following:

Construction grants and State revolving loan funds: Authorizes $18 billion over 9 years'—fiscal years 1986–94—for grants to help cities construct sewage treatment systems, while gradually phasing out the subsidy program. Of the total, $9.6 billion is to be used by the States to make grants to local communities, and $8.4 billion is to be placed in State revolving loan funds and used to make low-interest loans to communities.

Allotment formula: Establishes a new formula for dividing construction grants and revolving fund grants among the States.

Special projects: Authorizes $159 million in special grants for several local pollution-control projects.

Nonpoint source pollution: Authorizes $400 million over 4 years for grants to help States reduce polluted runoff from city streets, farm land, mining sites, and other diffuse sources.

Control of toxic pollutants: Establishes a new system to tighten controls on discharges of toxic substances into water bodies.

National estuary program: Authorizes $60 million for a new program to address pollution problems in estuaries.

Clean lakes: Strengthens an existing program to improve water quality in lakes. Authorizes $150 million for grants to help States improve lake water quality, $40 million for an Environmental Protection Agency demonstration program, and $15 million to mitigate high acidity in lakes.

Great Lakes: Authorizes $55 million for programs to improve water quality in the Great Lakes.

Chesapeake Bay: Authorizes $12 million for EPA's office of Chesapeake Bay programs, and $40 million for grants to States.

Permiting requirements for storm water discharges: Sets deadlines for cities of various sizes to obtain permits for discharges of storm water.

Antibacksliding: Prohibits the relaxation of cleanup requirements when a municipal or industrial discharge permit is renewed or rewritten, except in certain narrowly defined circumstances.

Fundamentally different factors variances: Limits the conditions under which an individual facility may receive a variance from industry-wide cleanup regulations.

Compliance deadlines: Extends the deadline for industrial facilities to comply with national cleanup standards.

Penalties: Increases penalties for civil and criminal violations of clean water laws, and provides new authority for EPA to assess civil penalties.

Ocean dumping: Bans sludge dumping in the New York Bight Apex and prevents the city of Boston from dumping sludge at a dump site off the coast of New Jersey.

Mr. BORSKI. I rise to urge the House to override the President's veto of the Clean Water Act. This is a moment which calls for a strong statement from this body. The President is wrong on this issue. Let's send the President and the Nation a clear message with an overwhelming vote to override the veto.

In his veto message, the President charged that the clean water bill was a budgetbuster. He said the bill was laden with pork. Mr. Speaker, that kind of rhetoric simply doesn't hold water. The clean water bill does spend tax dollars but it is money well-spent. It represents only a downpayment on the job of controlling the pollution of our water.

The American people support a vigorous clean water program. They demand that Government take a strong role in cleaning up our lakes, rivers, and bays. When it comes to an issue as vital as clean water, they want an activist Government which will safeguard our Nation's water supply. On this issue, there can be no compromise.

Mr. Speaker, Mr. Reagan was wrong to veto this bill on November 6, 1986. He was wrong to veto it on January 30, 1987. The American people expect us to do the right thing on clean water. The time has come for this body to vote overwhelmingly to override.

Mr. GILMAN. Mr. Spaker, I rise in strong support of the motion by the gentleman from New Jersey [Mr. HOWARD] to override the President's veto of H.R. 1, the Clean Water Act amendments. I thank the chairman of the Committee on Public Works and Transportation, and the gentleman from Arkansas, the ranking minority member of that same committee, Mr. HAMMERSCHMIDT, for bringing this motion before us in such an expeditious manner and for continuing the fight to protect and improve our Nation's waters.

By my estimate this is the third time the

House will have debated H.R. 1 over the past several months. Consideration of this legislation, which was pocket vetoed by the President this past winter, was the first order of business in the 100th Congress. On January 8, 1987, the House adopted H.R. 1 by a vote of 406 to 8. The other body followed suit, when on January 21, they adopted H.R. 1 by a margin of 96 to 6. Clearly this measure enjoys bipartisan support with Members on both sides of the aisle renewing their commitment to make our Nation's waters potable, swimmable, and fishable within this decade.

H.R. 1 reauthorizes our major water programs, programs that have long-term ramifications for the health and vitality of both our natural resources and our citizens. This bill strengthens and extends the original Clean Water Act of 1972 by providing $20 billion for the various water quality programs. These vital initiatives, which include State sewage treatment construction grants, nonpoint pollution control programs, and State clean water revolving funds, will insure that our most precious of natural resources, our waters, will be preserved for generations to come.

In his veto measure the President indicated his concern that H.R. 1 was a budgetbuster. I urge my colleagues to bear in mind that once our waters are polluted beyond repair, all the money in the world would not be able to undo the damage. We have a Federal commitment to hold up our end of the bargain. The States desperately need our support and guidance in helping to save and preserve our waters. The bill before us represents over 2 years of work and I believe is a distinct improvement in our water policy. Accordingly, I urge my colleagues to support the motion to override the President's veto in order to assure that the clean water programs in all of our States and municipalities remain viable. We must meet our responsibility to our constituents to protect and defend our natural resources by voting to override this veto.

Mr. FIELDS. Mr. Speaker, I rise to urge my colleagues to join with me in voting to override the President's veto of H.R. 1, the Water Quality Act of 1987.

While I deeply regret that the President has vetoed this legislation, H.R. 1, is neither pork barrel nor is it a budget buster.

In fact, based on the water quality needs of this Nation, this bill can best be characterized as a modest and cost-effective proposal. It is a strong, efficient, and balanced approach to the goal of ensuring cleaner waters for all Americans.

While there are a number of essential provisions contained within this legislation, I will highlight just two reasons why I intend to vote to override.

Since coming to Congress in 1981, I have consistently argued in favor of the Federal Waste Water Treatment Program and the need for increased funds for the State of Texas.

With the enactment of this legislation, we will accomplish both of these important goals. The Federal Waste Water Treatment Program, which is so critical to States like mine, will be extended for an additional 4 years and the State allocation formula has been modified so that Texas receives an additional $18 million per year.

While I recognize that waste water treatment grants were the major reason for the President's veto, this $2.5 billion a year program pales in comparison with the funding requirements contained within the Environmental Protection Agency's 1984 needs survey.

In that document, the administration told Congress that $108 billion would be needed by the year 2000 for sewage plant construction.

Mr. Speaker, it is indeed regrettable that this administration, which has proposed six times more funding for this program than is contained in H.R. 1, has now vetoed this critical legislation.

Mr. Speaker, the second reason I will vote to override is based on more local and parochial interests.

Mr. Speaker, some 3 years ago, a group of citizens asked me to become involved in an effort to clean up Lake Houston, a body of water which not only provides recreational opportunities for thousands of my constituents but also 40 percent of the city of Houston's drinking water needs.

As a culmination of my efforts, incorporated within H.R. 1 are the general principles of the Lake Houston Water Quality Improvement Act, a proposal which I introduced in both the 98th and 99th Congresses.

Section 314 of H.R. 1 creates a new Lake Water Quality Demonstration Program to be administered by the Environmental Protection Agency. Eleven bodies of water nationwide, including Lake Houston, will participate in this demonstration program which will test new cleanup technologies.

In addition, this program will evaluate the feasibility of implementing regional waste water treatment plants which may well hold the key to improving the water quality in this vital watershed.

Mr. Speaker, by selecting Lake Houston for participation in this nationwide demonstration program, we will guarantee an improvement in the water quality of this lake which is so important for thousands of Houstonians.

By once again passing this legislation, we will ensure that in the years ahead our rivers, lakes, and streams are cleaner for all Americans.

Mr. Speaker, this may well be the most important environmental vote we take in this historic 100th Congress. As someone who has consistently fought for a cleaner and safer environment, I urge my colleagues to vote to override the President's veto of this legislation.

Thank you, Mr. Speaker.

Mr. SIKORSKI. Mr. Speaker, President Reagan has called the Clean Water Act a bill "loaded with waste and larded with pork." That is a more accurate description of some of our Nation's waterways. And without this legislation, many of them will only get worse.

In the Twin Cities alone, 4.6 billion gallons of untreated sewage and wastewater are discharged into the Mississippi River each year. And another 8 to 10 billion gallons of untreated wastes from 189 Minnesota communities flow into drainage systems that can eventually end up in the Mississippi.

Mr. Speaker, money spent in Minnesota to clean that up isn't pork barrel. It's a national priority. It benefits every one of the millions of people in 10 States—Minnesota, Wisconsin, Iowa, Illinois, Missouri, Arkansas, Kentucky, Tennessee, Mississippi, and Louisiana—that depends on the Mississippi for drinking water, agriculture, and recreation.

We cannot spend billions for weapons and ignore the defense of our environment, our health, and our economy.

The Clean Water Act is a defense bill, protecting the water resources we need to survive. It is a smart bill, setting up new programs to deal with old problems, such as toxic hot spots and nonpoint source pollution. And it's a sound bill, achieving one of this administration's earliest objectives—turning control over Federal programs back to the States.

We need the Clean Water Act. I urge my colleagues to support this legislation and override the President's veto.

Mr. TRAFICANT. Mr. Speaker, as an original cosponsor of H.R. 1, the Water Quality Act of 1987, I rise in strong support of the vote today to override the President's veto of this important legislation.

Mr. Speaker, no money value can be placed on the importance of protecting this Nation's precious water resources. The scourge of water pollution is a serious problem that must be dealt with—now. The effects of what we do today relative to this problem will have a far-reaching effect on future generations of Americans.

Without question addressing the problem of water pollution is costly. But what will be the costs in 20 years if we fail to accept responsibility for ensuring the safety and quality of our water supplies? This bill is a wise investment in America's future. Many State and local governments have hit upon hard fiscal times. At the local level, sewage treatment is a top priority. H.R. 1 will assist States in fighting water pollution while at the same time placing limits on Federal expenditures in the sewage treatment program. Let me reiterate that addressing the water pollution problem costs money—but to refuse to do the job right is to condemn future generations of Americans to deal with serious and perhaps uncontrollable water pollution problems.

The President has said that this bill is too costly, yet the Environmental Protection Agency's 1984 biennial survey of needs for municipal sewage treatment plants through the year 2000 estimated that America's total need for waste water treatment was $101.7 billion. In light of this survey, H.R. 1 represents a fiscally responsible approach to the sewage problems facing municipalities across the country. It limits the ultimate Federal cost for construction of sewage treatment works to $18 billion—which includes $4.8 billion already appropriated for fiscal years 1986 and 1987.

This legislation transfers waste water treatment responsibilities to the States by gradually phasing out the Construction Grants Program. This program would be replaced, over a period of several years, by a revolving loan program for the States. This would ensure that municipalities have the resources to deal with their sewage problems well into the next century—while at the same time relieving the Federal Government of its financial responsibilities in this area.

A vitally important component of H.R. 1 is that it substantially strengthens the Clean Water Act. It sets up a cooperative effort between EPA and States to deal with the serious problem of nonpoint sources of pollution; it calls for the development of individual toxic pollutant control strategies for waters which are not meeting water quality standards set forward in the act; and the bill develops a viable process for controlling polluted storm water runoff.

This bill is essential to protect our water supplies—now and for generations to come. In short, Mr. Speaker, America needs this bill.

Mr. FLORIO. Mr. Speaker, I rise in support of efforts to override the Presidential veto of H.R. 1, the Clean Water Act reauthorization, and improve the water quality of our Nation's rivers, streams, and lakes. For the second time in a matter of weeks, Congress again has the opportunity to reaffirm the message that was sent to the President on two occasions. The health of our citizens and our natural resources and the future of our Nation's development will be severely threatened if we do not take steps to clean up our Nation's water supplies.

The lack of a clean water reauthorization endangers not only the economic health of our Nation but also the sanctity of our natural resources. H.R. 1 provides our municipalities with an environmentally responsive and fiscally responsible combination of grants and loans that would allow them to comply with the law and construct sewage treatment facilities. It provides our municipalities with the means to meet the mandate and ensure that our communities can continue to develop.

Without this vital combination of $18 billion in grants and loans, our communities will find their economic growth stunted. Without the mandated improvements in our sewer systems, economic development and expansion, with the creation of new jobs, would be halted. The $99 million per year in grants and loans that is slated for my own State of New Jersey through 1992 would guarantee that the sewage systems will be able to sustain higher development without jeopardizing the quality of our environment. Without this money, each of my constituents could be billed $1 for every $1 million lost in Federal funds because these improvements need to be made.

Mr. Speaker, when the President vetoed this legislation last week, he accused the bill of busting the budget. I would like to direct the attention of my colleagues to the fact that H.R. 1 takes into consideration the fiscal constraint we are facing and phases out the grant program and replaces it with a revolving loan fund. However, all this would be accomplished in such a way as to not interrupt this necessary program.

This legislation provides our Nation with not only the funds to improve our water quality but also with the guidance to decrease pollution on our shores, in our rivers and streams and lakes. In New Jersey, where tourism is one of the key industries, there have been many occasions when our beaches had to close during the summer because of the dangerous and often toxic pollution washing up on the shore. This legislation would alleviate the pollution by prohibiting ocean dumping 12 miles off the New York-New Jersey coast.

In addition, H.R. 1 not only restricts nonpoint pollution but also creates a clean lakes program that will clean up such environmental hazards as Alcyon Lake, next to Lipari landfill, the No. 1 site on the Superfund national priority list in Pitman, NJ. I know how strongly the residents of Pitman feel about being able to once again fish and swim in this lake and I know that this is a feeling shared by many communities across the Nation.

In sum, Mr. Speaker, enactment of the Clean Water Act reauthorization is something we, as a Congress, owe not only to our constituents but also to future generations. We owe it to our children and our grandchildren to ensure that the legacy we leave them is one that will include our best efforts to preserve our natural resources and prevent future degradation of our environment. I urge my colleagues to join in maintaining our commitment to a clean and safe environment and enacting H.R. 1.

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Mr. HAMMERSCHMIDT. Mr. Speaker, I do not have any further requests for time, but before I yield back the balance of my time, I yield myself such time as I may consume so that I may say this:

I want to express my appreciation for the leadership given on this legislation for the past 6 years, and even before that, by the chairman of the subcommittee, the gentleman from New Jersey, Mr. BOB ROE, and his counterpart, the gentleman from Minnesota, Mr. ARLAN STANGELAND. I served at one time with the gentleman from New Jersey as ranking member on the Water Resources Subcommittee, and I know the prodigious work he did.

I also wish to thank and congratulate the gentleman from New York [Mr. NOWAK,] who will be assuming the responsibilities as chairman of the subcommittee.

Also, Mr. Speaker, certainly I wish to express my appreciation to the chairman of the full committee, the gentleman from New Jersey, Mr. JIM HOWARD, for his leadership and his cooperation, and I also express my appreciation to the very professional committee staffs. Their help and their cooperation have brought us to this point.

Mr. HOWARD. Mr. Speaker, before I yield back the balance of my time, I yield myself such time as I may consume.

Mr. Speaker, I wish to thank my colleagues, all the members of the Committee on Public Works and Transportation, as well as our counterparts over in the other body.

I especially thank the gentleman from New Jersey [Mr. ROE] and our new subcommittee chairman of the Subcommittee on Water Resources, the gentleman from New York [Mr. NOWAK]. I appreciate the efforts of our ranking minority member, the gentleman from Minnesota [Mr. STANGELAND], and I thank all the Members for the work they have done on this vitally important issue.

In just a matter of weeks this marks really our third time around on this vital legislation. We were victorious in the Congress the first two times. Usually if you win the third time, you get to retire the trophy.

We are not looking for any trophies here, Mr. Speaker. What we are looking for is a mandate by this Congress for clean water for our children and our grandchildren. We can do that by voting yes on this vote to override the President's veto.

Mr. Speaker, I yield back the balance of my time, and I move the previous question.

The previous question was ordered.

The SPEAKER pro tempore (Mr. KILDEE). The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 401, nays 26, not voting 6, as follows:

[Roll No. 14]

YEAS—401

Ackerman
Akaka
Alexander
Anderson
Andrews
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Biaggi
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Boner (TN)
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Brooks
Brown (CA)
Brown (CO)
Bruce
Bryant
Bunning
Bustamante
Byron

Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clay
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crockett
Daniel
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally

Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini

Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Mack
MacKay
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McEwen
McGrath
McHugh
McKinney
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Miller (CA)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—26

Badham
Bartlett
Barton
Broomfield
Buechner
Burton
Cheney
Combest
Crane
Dannemeyer
DeLay
Dornan (CA)
Herger
Hyde
Inhofe
Kemp
Latta
Lewis (CA)
Lott
Lukens, Donald
Lungren
Madigan
Marlenee
Michel
Stump
Vander Jagt

NOT VOTING—6

Annunzio
Clinger
Dickinson
Gephardt
McDade
Miller (OH)

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Mr. LIPINSKI and Mr. HEFLEY changed their votes from "nay" to "yea."

So, two-thirds having voted in favor thereof, the bill was passed, the objections of the President to the contrary notwithstanding.

The result of the vote was announced as above recorded.

The SPEAKER. The Clerk will notify the Senate of the action of the House.

WATER QUALITY ACT OF 1987 - VETO MESSAGE

To the House of Representatives:

I am returning herewith without my approval H.R. 1, the "Water Quality Act of 1987." Because all regulatory, research, enforcement, and permit issuance activities are continued under permanent law and current appropriations—including grants to finance the construction of sewage treatment plants—I emphasize that my veto will have no impact whatsoever on the immediate status of any water quality programs.

The cleanup of our Nation's rivers, lakes, and estuaries is, and has been for the past 15 years, a national priority of the highest order. This Administration remains committed to the objectives of the Clean Water Act and to continuing the outstanding progress we have made in reducing water pollution. But the issue facing me today does not concern the ensuring of clean water for future generations. The real issue is the Federal deficit—and the pork-barrel and spending boondoggles that increase it.

The Clean Water Act construction grant program, which this legislation funds, is a classic example of how well-intentioned, short-term programs balloon into open-ended, long-term commitments costing billions of dollars more than anticipated or needed. Since 1972, the Federal Government has helped fund the construction of local sewage treatment facilities. This is a matter that historically and properly was the responsibility of State and local governments. The Federal Government's first spending in this area was intended to be a short-term effort to assist in financing the backlog of facilities needed at the time to meet the original Clean Water Act requirements. When the program started, the cost of that commitment to the Federal taxpayer was estimated at $18 billion. Yet to date, $47 billion has been appropriated. H.R. 1 proposes to put still another $18 billion of taxpayers' money into this program. Despite all this money, only 67 percent of all municipalities have actually completed the construction needed to comply with the Clean Water Act pollution limits. On the other hand, non-municipal treatment systems, which have received no Federal funding, have completed 94 percent of the construction needed for compliance with Federal pollution standards. I want a bill that spends only what we need to spend and no more—not a blank check. For these reasons I must disapprove H.R. 1, a bill virtually identical to S. 1128, which I disapproved last November.

Money is not the only problem with this legislation. In my November 6th memorandum of disapproval, I noted that S. 1128 was unacceptable not only because it provided excessive funding for the sewage treatment grant program, but also because it reversed important reforms enacted in 1981, for example, increasing the Federal share of costs on some projects that municipalities were going to build anyway. Furthermore, both S. 1128 and this bill would also establish a federally controlled and directed program to control what is called "non-point" source pollution. This new program threatens to become the ultimate whip hand for Federal regulators. For example, in participating States, if farmers have more run-off from their land than the Environmental Protection Agency decides is right, that Agency will be able to intrude into decisions such as how and where the farmers must plow their fields, what fertilizers they must use, and what kind of cover crops they must plant. To take another example, the Agency will be able to become a major force in local zoning decisions that will determine whether families can do such basic things as build a new home. That is too much power for anyone to have, least of all the Federal Government.

As part of my FY 1988 Budget, I proposed legislation that would avoid all these problems, while continuing our commitment to clean water. It would provide $12 billion for the sewage treatment program, halfway between the $6 billion I had proposed in 1985 and the $18 billion the Congress proposes. Senator Dole introduced this proposal as a substitute for H.R. 1.

Specifically, the Dole substitute that was voted on by the Senate was identical to all provisions of H.R. 1 for programs other than sewage treatment, with one important exception—its program for non-point source pollution was not an open end for Federal regulators. It kept Federal environmental regulators off of our farms, off of our municipal zoning boards, and out of the lives of ordinary citizens. The Dole substitute would have given States complete discretion over participation in the non-point source pollution program and complete discretion over how they used Federal funds in the program. Let me repeat—controlling non-point source pollution has the potential to touch, in the most intimate ways, practically all of us as citizens, whether farmers, business people, or homeowners. I do not believe State programs should be subject to Federal control.

The $12 billion requested in the Dole substitute would have financed the "Federal share" of all of the treatment plants that have already been started. It would also have provided the "Federal share" of financing for all facilities needed to meet the July 1, 1988, compliance requirements in the Clean Water Act. It was as much money as we needed to get the job done—period.

The Dole substitute offered the Congress a genuine compromise that met all of the national objectives and goals. Nevertheless, the Congress chose to ignore that proposal, forgoing even the normal hearing process, and repassed last year's legislation with virtually no changes. The House Rules Committee even prevented consideration of this compromise by the full House. They sought to challenge me. But in so doing they are sending a message to the American people and the world that those who want to raise taxes and take the lid off spending are back again. This is perilous.

H.R. 1 gave the Congress the opportunity to demonstrate whether or not it is serious about getting Federal spending under control. The Congress should fulfill its responsibility to the American people and support me on these important fiscal issues. Together we can cut the deficit and reduce spending. But by passing such measures as H.R. 1, the Congress divides our interests and threatens our future.

RONALD REAGAN.

THE WHITE HOUSE, *January 30, 1987.*

SENATE DEBATE ON H.R. 1

January 14, 20, and 21, 1987
(Congressional Record, vol. 133, daily ed.,
S733-S769, S912-S918, S1003-S1034)

WATER QUALITY ACT OF 1987

Mr. BYRD. Mr. President, under the agreement that was entered on yesterday, the majority leader was authorized to call up the House bill on clean water at any time today, following the conclusion of routine morning business, after consultation with the Republican leader, and make that bill the pending business before the Senate.

The majority leader and the minority leader have consulted, and therefore I exercise the authority under the order and ask that the Chair lay before the Senate the House bill on clean water.

The ACTING PRESIDENT pro tempore. The clerk will now report H.R. 1.

The legislative clerk read as follows:

A bill (H.R. 1) to amend the Federal Water Pollution Control Act to provide for the renewal of the quality of the Nation's waters, and for other purposes.

The Senate proceeded to consider the bill.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota is recognized.

Mr. BURDICK. Mr. President, I rise in strong support of the Water Quality Act of 1987. In a moment I will yield to Senator MITCHELL, chairman of the Subcommittee on Environmental Protection, who I have asked to be the floor manager of this bill. But before I do so, I want to briefly discuss why the passage of this bill is so important and so timely.

H.R. 1 is historic legislation that will expand and strengthen the Clean Water Act. This bill has been over 3 years in the making. It has been through the hearing process in two Congresses. We held extensive markups in the Environment and Public Works Committee. The bill passed the Senate and was considered in a lengthy conference with the House. H.R. 1 before us today, like its counterpart S. 1, is identical to the bill approved by the House/Senate conference committee and passed unanimously in both houses of Congress last year. The legislative history for that bill, S. 1128, from its committee report to its conference report, is the legislative history of H.R. 1.

If it were not for the President's unfortunate action in pocket vetoing this bill late last year, this exact bill would already be law.

I want to commend my colleagues on the Environment and Public Works Committee for their excellent work in the development of this legislation.

My predecessor as chairman of the committee, the distinguished Senator from Vermont, guided the committee through development of this and other vital environmental legislation over the past several years.

Senators BENTSEN and MITCHELL, during the last Congress the ranking minority members of the full committee and the Subcommittee on Environmental Pollution respectively, made tremendous contributions to this Clean Water Act reauthorization.

And I want to specifically congratulate Senator CHAFEE. He is the architect of this legislation. He chaired the hearings we held on clean water in the Environment Committee. He managed the bill on the Senate floor. And he spoke for the Senate conferees during the long and intense conference with the House on this legislation. The high quality of this legislation is largely due to his efforts.

Since its passage in 1972, the Clean Water Act has brought about a remarkable improvement in the quality of our rivers, lakes, streams, and marine waters.

A recent study of water quality conditions concluded that, between 1972 and 1982, the percentage of monitored stream miles considered clean rose from 36 to 64 percent. This represents the cleanup of roughly 47,000 miles of streams at a time when population rose by about 10 percent. We can point to similar success in cleanup of lakes and estuaries.

We have ample evidence that the Clean Water Act works. But we also have evidence that there is still a great deal of cleanup work to be done.

About 30 percent of the rivers most used for recreation and other purposes do not meet the standards we have set for them. Almost 15 percent of our most used lakes are polluted. There is evidence of serious water pollution problems in our marine bays and estuaries.

This legislation is designed to keep us moving forward in our drive to clean up our waters. It improves a number of the existing programs in the act. And, it provides new approaches to address emerging water pollution problems.

The changes to existing programs are necessary and appropriate, but the real heart of our bill are the new provisions addressing emerging problems.

The 1977 amendments to the Clean Water Act provided a major reorientation of the best available technology requirements to the control of toxic pollutants. Now we have discovered that even with the implementation of best available technology, many waters will still have serious problems of contamination with toxic pollutants. In this legislation we have developed a new program for identification of waters affected by toxic pollutants and implementation of specific controls to reduce these toxics. This will involve the adoption of numerical water quality criteria, and the development of effluent limitations to assure that water quality standards for toxic pollutants are attained.

We have developed a new program for management of nonpoint sources of pollution, such as general runoff. Nonpoint pollution is thought to cause over half of our remaining water quality problems. The bill authorizes $400 million to encourage the development of State nonpoint source management efforts.

We have developed a new program for protection of marine waters and estuaries which is based on our experience dealing with the problems of the Chesapeake Bay.

And, we have designed a new approach to assisting communities in construction of sewage treatment plants. We will continue to provide grants for several years, but will then provide Federal funds to capitalize State revolving loan funds. States will use these loan funds as a permanent resource for assisting in the financing of water quality projects. The Federal grant program will have been phased out, but sewage treatment plant construction and replacement can continue.

Let me mention just a few of the improvements to existing provisions of the Clean Water Act.

Our bill would tighten existing civil and criminal penalty provisions of the act.

It provides an improved and less burdensome process for control of discharges of stormwater, particularly for municipalities.

It provides for better monitoring and reporting of the quality of our lakes, with a demonstration program for putting lake cleanup techniques into place.

It assures that modifications of permit requirements for toxic or nonconventional pollutants will be handled only in accordance with strict new legislative guidance.

It limits circumstances in which effluent limitations achieved in permits can be weakened in subsequently issued permits.

And, it tightens provisions for waivers from secondary treatment for discharges of sewage to marine waters.

Mr. President, This is good, solid legislation, developed over a period of years by the Environment Committee and our colleagues in the House of Representatives. It has the support of the full range of industry and environmental groups.

This legislation responds to the desire of the American people for clean water and a safe environment.

I hope that evey one of my colleagues will join me in voting for this bill.

(Mr. BREAUX assumed the chair.)

Mr. MITCHELL. Mr. President, I rise in support of H.R. 1, the Water Quality Act of 1987.

This legislation will extend and strengthen one of our most fundamental environmental protection laws—the Clear Water Act.

Over the past several months, we have heard and read a great deal about the many specific provisions of this bill. I would like to take a moment to step back and look at the big picture.

This bill deserves the support of every one of my colleagues in the Senate for at least three reasons.

It is bipartisan legislation; it is necessary legislation; and it has the overwhelming support of the American people.

Let me review the exceptional, bipartisan support for this legislation.

During the last Congress, the leadership and members of the Environment and Public Works Committee worked together to draft a balanced, responsible bill addressing our most pressing water quality problems. I was pleased to work with Senator CHAFEE, who was then chairman of the subcommittee of jurisdiction; Senator STAFFORD, who was then chairman of the full committee; Senator BENTSEN, who was then the ranking member of the full committee; and Senator BURDICK, who is now the chairman of the committee. Together we brought a fine bill to the full Senate, which approved it unanimously.

Senator CHAFEE served as chairman of the Senate conferees for the conference with the House. More than any other individual, he deserves credit for this legislation. Senator CHAFEE's diligence, his innovativeness, his commitment to protecting the American environment made this bill possible.

Under Senator CHAFEE's leadership, the conference adopted the more reasonable Senate approach to funding of sewage treatment projects and adopted the best of the regulatory improvements contained in both bills. Again, this effort was so successful that both the House and the Senate adopted the conference report unanimously.

Even after the President's unfortunate veto of the bill, bipartisan support remained firm. The House of Representatives recently approved a bill identical to the one before us today by a vote of 406 to 8.

In the Senate, the majority leader and the new chairman of the Environment and Public Works Committee, Senator BURDICK, have worked hard to bring the bill to the floor and assure its passage. And, Senators CHAFEE and STAFFORD have joined us in this effort, along with many other Senators—77 in all—who cosponsored the bill.

Part of the reason the bill has such broad support in Congress is that it is recognized as sound legislation addressing some of our most pressing water pollution problems.

I will later in the debate speak in great detail about many of the important provisions in the bill. I will at this point briefly comment on some of the key provisions.

The bill provides a new approach to control of toxic pollutants in water. Although the current law provides general authority for toxics control, this legislation initiates a specific process designed to identify and control these toxic substances.

The legislation requires States to identify waters that do not meet water quality standards due to the discharge of toxic pollutants; to adopt numerical criteria for the pollutants in such waters; and to establish effluent limitations for individual discharges to such water bodies.

This provision is an important addition to our ability to protect water quality and public health from increasing amounts of toxic chemicals.

Another key element of the bill provides for State programs to identify and control nonpoint source pollution. Nonpoint pollution is caused by general runoff, rather than discharge from a specific pipe. These nonpoint sources of pollution are thought to cause over half of our remaining water pollution problems.

States will identify waters affected by nonpoint sources of pollution and develop programs to implement best management practices for controlling this pollution. State programs will include a schedule for implementation and will be coordinated with related Federal projects.

Finally, the bill gives State and local governments a clear statement of future Federal involvement in treatment plant financing and allows them to finalize plans to meet the compliance deadlines established in the law. It provides for a transition from the current grant program to a program providing Federal support for State revolving loan funds.

Establishment of loan funds will provide States with a permanent resource for funding of sewage treatment and other water quality related projects.

The final reason to support the bill is it has the overwhelming support of the American people.

A wide range of industry and environmental groups support the bill. And, polls show that the public favors continued effort to improve water quality by large margins. Final enactment of this legislation is an important step toward carrying out this mandate.

The only argument advanced against this bill has been advanced by the President, who says that it is too costly; that we cannot afford it. This bill calls for the expenditure of $18 billion over 9 years to clean up America's waters. In the budget he recently proposed to the Congress, the President asks for an increase of $1.7 billion in foreign aid, which would raise that expenditure to a new record level of nearly $15 billion.

Thus, President Reagan proposes to devote nearly $15 billion in 1 year to foreign aid, while Congress proposes to spend $18 billion over 9 years to clean up America's waters.

How can the President, or anybody else, say that we cannot afford to keep America's waters clean, while at the same time proposing a multibillion dollar increase in foreign aid, proposing to spend in 1 year on foreign aid nearly as much as the Congress wants to spend in 9 years to clean up America's waters?

I do not believe that those are the right priorities for our America. I do not believe the American people share the President's priorities on this issue. They want clean water. They favor this bill overwhelmingly.

In conclusion, Mr. President, I hope that every one of my colleagues will support this bill. There are very few opportunities to vote for substantive legislation which has broad, bipartisan support, which is recognized as sound, thoughtful legislation, and which is supported overwhelmingly by the American people.

This is a winning combination which deserves the unanimous support of the Senate.

I would like to note that this bill is virtually identical to the bill approved last year by both Houses of Congress. The legislative history of this bill, therefore, includes the conference report (House Report 99-1004), and the Senate debate on the conference report, as well as the report of the Environment Committee on the committee bill, S. 1128, and the Senate debate on the committee bill.

Mr. President, I ask unanimous consent that the following staff members be accorded privileges of the floor during debate and all votes related to consideration of the Water Quality Act.

They are: Lee Fuller, Peter Prowitt, Phil Cummings, Jeff Peterson, Kate Kimball, Nan Stockholm, Ron Cooper, Seth Mones, Kathy Cudlipp, Bob Hurley, Bailey Guard, Ron Outen, Jimmie Powell, Steve Shimberg, and Elizabeth Thompson.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I yield to my distinguished colleague, Senator CHAFEE, who as I said in my earlier remarks is the individual most responsible for the drafting and enactment of this legislation in the last Congress. He devoted nearly 2 years to this effort. The American people owe him a great debt of gratitude for his leadership.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, first I would like to thank my distinguished colleague, Senator MITCHELL, for those very kind remarks and also thank the distinguished chairman of our committee, Senator BURDICK, for his generous comments on my work in connection with this legislation.

Let me just say to start with, Mr. President, that for the efforts of Senator MITCHELL in the subcommittee where he and I worked so closely together and then when we moved to the full committee where the results of our work were pressed ahead by not only Senator MITCHELL, but Senator STAFFORD, Senator BENTSEN, and Senator BURDICK, and thus we emerged from the committee with a unanimous vote, came to the floor, and with the vigorous support of those Senators; namely, Senator MITCHELL, Senator BURDICK, Senator BENTSEN, and Senator STAFFORD, we were able to achieve an overwhelming vote here on the floor of the Senate with our original legislation.

Then we went to conference, and again the help of those Senators was so essential to the approval of this legislation. I will touch briefly as I proceed here on the differences between the two bills when we went to conference, and what we came out with.

What we are dealing with, of course, is the bill before us, H.R. 1, which, as has been mentioned, is absolutely identical to the conference report on S. 1128, which passed last October in this Senate by a vote of 96 to nothing and which was passed by the House 408 to nothing. It is pretty hard to get anything passed 408 to nothing in the House and 96 to nothing in the Senate. Possibly a motherhood resolution, but not much else will pass with those overwhelming margins.

That is a tribute to the confidence which the Members of this Congress have in this legislation. The original bill passed the Senate in June 1985 and the House bill shortly thereafter. Then we had some 15 months of conference or preconference developments. Out of that we were able to fashion this compromise. As Senators BURDICK and MITCHELL so generously commented I had the privilege of being the leader of the Senate conferees at that conference with the House. I can tell my colleagues that this is strong environmental legislation. I can also say it is fiscally responsible. Let us touch a minute on the construction grants.

The House originally passed a bill of $21 billion on construction grants, and about $6 billion in special projects and programs making a total of almost $27 billion. The Senate bill was a little less than $20 billion. We had $18 billion for construction grants, and $1.5 billion-plus for other programs. We went to conference. Here we come with the Senate bill which is little less than $20 billion, the House with $27 billion, and from the conference we emerged with a bill for a total package of $20.7 billion. In other words, it was just about at the Senate figure, and $6.2 billion below the House figure.

Despite the pleas of many of us, despite the fact that there was this overwhelming vote in both bodies on the conference report, the President chose to pocket veto the legislation. That decision came as a big disappointment to me. I had made strenuous efforts as did many others to encourage and urge the President to sign the legislation because we could see what was going to happen. We could see the scenario play out exactly as it has. I made a pledge at the time that we would come back with the same bill. So did Senator MITCHELL, Senator BENTSEN, Senator BURDICK, and others, and of course Senator STAFFORD, who also strongly urged the President to sign the measure.

So here we are. The bill is exactly the same as was passed in the conference. It has already passed the House, is now in the Senate, and will soon be passed here.

Failure to enact this legislation will seriously delay the cleanup of our rivers and streams. And it will jeopardize hundreds of projects across the Nation including many in my home State of Rhode Island.

It has been charged that this legislation is budget busting. That is simply not the case. Although $18 billion authorized in the bill for wastewater treatment projects exceeds the administration's request, it is within current funding levels and it conforms to the budget resolution. No one is dismissing $18 billion as being a petty amount of money. It is a substantial amount of money. But it is a small sum compared to the more than $75 billion that it is estimated by EPA to be required to build all the facilities that are necessary to clean up our waters. So we are coming forward not with $75 billion but with $18 billion, and, furthermore, this program ends. It is over with in 1993. That is something that the administration has sought so vigorously, and we have come forward and have done that.

I would also like to remind my colleagues of a commitment that we had from the administration in 1981 when this administration came to office. At that time, we went through some major reforms in the construction grants program. Just listen to some of them.

The 1981 amendments reduced the annual authorization for this program by more than half, from $5 billion to $2.4 billion a year. That is one thing we did. We cut out many of the eligible categories such as collector sewers. They are out. They are not permitted any more. We eliminate certain interceptor sewers. We do not provide funding for them, and we do not provide funding for certain combined sewer overflows. Furthermore, in a very major step we only provided Federal money for existing population. No State can come in to us and say we are projected to grow by 40 percent in the next 10 years, give us Federal money for that. No.

You ought to provide for that yourself. We will give you money now to clean up our rivers and streams and you are required to come up with the additional money as your growth takes place. It is not the Federal Government's duty to provide money to you for all your growth in the future.

Our goal in 1981 was to cut out any so-called "pork" out of the program and change the focus from growth and development projects to building facilities to clean up our waters.

What did we get in exchange? I might say this was a bitter pill for many people to swallow, but we did it, in very intense negotiations with the House of Representatives in the conference that we held at that time which I had the privilege to be chairman of.

In exchange for tightening up the program and reducing the authorization, the administration committed itself to a funding level of $2.4 billion each year for 10 years, from 1981 to 1991. This legislation lives up to that commitment, and I might say goes a step further. It phases out a very popular program after 1994. Yet we do it in a highly responsible way.

The Water Quality Act of 1987, this bill, assures compliance with a strong water quality standards program and provides for greater control over toxic, conventional, and nonconventional pollutants, as our distinguished chairman previously mentioned. It establishes a new program to control pollution from nonpoint sources, as Senator MITCHELL touched upon. Nonpoint sources, as he said, is rain which washes off from city streets, or flows off of agricultural fields and is contaminated with pesticides and insecticides. It is different from point sources, such as a discharge from a municipality or a factory.

And, as I mentioned, H.R. 1 continues funding of waste water treatment works at the $2.4 billion level annually through fiscal 1991. Thereafter, it gets into the establishments of a revolving fund to ease the transition to full State and local sufficiency.

I would like to take a few moments to touch on some of the key provisions of the bill. For a more complete explanation, I ask my colleagues to refer to last year's debate when we had this program come up, and the conference report accompanying S. 1128, which was the number of the bill last year.

The legislation strengthens several regulatory programs. One such program relates to nonconventional pollutants.

Under current law, modifications can be sought from strong discharge requirements for so-called nonconventional pollutants, many of which, as Senator BURDICK mentioned before, are highly toxic. In an effort to severely limit the circumstances in which these weaker modifications can be given, the conference report allows these modifications only for five specific pollutants. If other pollutants are to be listed for modification, EPA has to go through a special procedure. This procedure requires the Administrator to first determine whether a pollutant meets the criteria of toxic pollutant.

If it does, then the pollutant must be listed as toxic from which no variance can be received. If the pollutant is not found to be toxic, the Administrator must then determine whether it can be listed under section 301(g) as a nonconventional pollutant. If it meets that test, the Administrator must finally determine whether an applicant applying for a modification from the effluent guideline for that particular pollutant can meet the test contained in section 301(g). It is expected that each of these steps be conducted through the formal regulatory process. It is also important to note that a stay of requirements for control of pollutants other than the nonconventional pollutant for which the modification is being sought is prohibited.

The legislation also contains provisions which severely limits the opportunities for which discharges can get modifications for fundamentally different factors. A key provision under the fundamentally different factors section specifically excludes consideration of costs, independent of other eligible factors, as a basis for establishing a fundamental difference with regard to an individual facility. Section 304 of the Clean Water Act authorizes the EPA to consider the cost of achieving effluent reductions, in addition to other factors, in development of a guideline for an entire industry. The EPA needs to consider cost when developing a guideline for an industry in order to determine the best available technology for water pollution control which is economically achievable for an entire industry.

While a guideline is intended to account for economic impact on an entire industry, it is not intended to account for the economic impact on each individual facility. The 1972 Clean Water Act Conference Report stressed this point, directing EPA to make the determination of the economic impact of an effluent limitation on the basis of classes and categories of point sources, as distinguished from a plant-by-plant determination. If a facility facing higher costs than the overall industry is allowed to reduce costs then the overall industry is allowed to reduce treatment levels below the minimum level, the degree of pollution control at a facility is linked to the economic efficiency of the facility, rather than the economic ability of the industry, and the principle of an industrywide minimum level of treatment loses its meaning.

Although the act does not and should not provide a mechanism to modify the requirements of an effluent guideline on the basis of fundamentally different costs at an individual facility, section 301(c) of the act provides for modification of requirements in a case where such requirements are beyond the economic capability of the owner. Section 301(c) does not allow the Administrator to modify treatment requirements based on a showing of fundamentally different costs to an individual facility, unless these costs are beyond the economic capability of the facility and, therefore, threaten its survival. In addition, section 301(c) is subject to section 301(1), which prohibits the Administrator from modifying any requirement as it applies to a toxic pollutant. This provision assures that toxic pollutants will be controlled, regardless of the economic capability of the discharger. The new authority for treatment modifications based on fundamentally different factors contained in the bill is not subject to section 301(1).

Section 301(n)(6) provides that an application for an alternative requirement under this section shall not stay the facility's obligation to comply with the effluent limitation guideline or standard which is the subject of the application. This provision is intended to prevent EPA or the State, or the POTW in the case of indirect discharge, from delaying issuance of the permit or pretreatment mechanism during the pendency of an application.

The owner or operator of a facility seeking an FDF modification has the burden of proving to the satisfaction of the Administrator that the facility is eligible for an alternative requirement under this section. The Administrator's decision to promulgate or deny an alternative effluent limitation or standard under this subsection shall be subject to judicial review pursuant to section 509(b)(1) of the act.

The Administrator may not delegate the authority provided by this subsection to any State. In addition, the authority of this section should be exercised only by the Administrator or Assistant Administrator for Water, rather than regional or other officials. The Administrator shall obtain the concurrence of a State before approving any alternative requirements under this subsection.

The bill also contains provisions continuing the Chesapeake Bay program; it establishes a Great Lakes water quality program and sets up a new national estuary program which provides that management conferences develop control strategies to assist in the clean up of estuaries. This is especially important to the Narragansett Bay in my State of Rhode Island which suffers from degradation of water quality.

Before I finish about the Chesapeake Bay, we are making great progress in that bay. We have had extraordinary cooperation from the States involved—Maryland, Virginia, and Pennsylvania. It is just an example of what can be done with some Federal input.

Funds in this bill are also set aside for correction of combined sewer overflows which can cause serious pollution in our State's more precious natural resource, the Narragansett Bay, and other estuaries around the Nation.

As Senator MITCHELL pointed out, a new nonpoint source control program is included in the legislation. The program would authorize $400 million over 4 years for States to develop comprehensive programs to abate such pollution runoff from urban areas and from farmlands which are often contaminated with toxic and other pollutants.

I might say this is a major step forward. People have discussed nonpoint pollution for a long time. But we have not gotten into it for a variety of reasons. One of them is the fear of local communities and the States that for some reason we might be getting into zoning control in those areas. How are you going to keep a field from draining off into a stream? How are you going to control that? Is the Federal

Government stepping in to say to a farmer he cannot do this or do that?

So we are moving cautiously with $400 million over 4 years for the States to develop the programs, not the Federal Government, but the States.

This legislation also beefs up the enforcement provisions of the act by increasing penalties for civil and criminal violations. It adds a new authority for the Administrator to assess administrative penalties against unpermitted discharges. The Administrator can do that, assess the penalties on violators.

EPA has new authority to assess penalties against the unpermitted discharges. I expect EPA to use this authority aggressively against illegal polluters, even if a memorandum of agreement is not concluded with the Secretary of the Army.

The corps enforcement record—and the Corps of Engineers is involved in this—shows the corps has not been vigorous enough against illegal dumpers. Now we have given EPA the authority to move against these polluters.

New paragraph 309(g)(6) sets out limitations that preclude citizen suits where the Federal Government or a State has commenced and is diligently prosecuting an administrative civil penalty action or has already issued a final administrative civil penalty order not subject to further review and the violator has paid the penalty. The same provision limits Federal civil penalty actions under subsections 309(d) and 311(b) for any violation of the Federal Water Pollution Control Act. While redundant enforcement activity is to be avoided and State action to remedy a violation of Federal law is to be encouraged, the limitation on Federal civil penalty actions clearly applies only in cases where the State in question has been authorized under section 402 to implement the relevant permit program.

A single discharge may be a violation of both State and Federal law and a State is entitled to enforce its own law. However, only if a State has received authorization under section 402 to implement a particular permitting program can it prosecute a violation of Federal law. Thus, even if a nonauthorized State takes action under State law against a person who is responsible for a discharge which also constitutes a violation of the Federal permit, the State action cannot be addressed to the Federal violation, for the State has no authority over the Federal permit limitation or condition in question. In such case, the authority to seek civil penalties for violation of the Federal law under subsections 309(d) or 311(b) or section 505 would be unaffected by the State action, notwithstanding paragraph 309(g)(6).

In addition, the limitation of 309(g)(6) applies only where a State is proceeding under a State law that is comparable to section 309(g). For example, in order to be comparable, a State law must provide for a right to a hearing and for public notice and participation procedures similar to those set forth in section 309(g); it must include analogous penalty assessment factors and judicial review standards; and it must include provisions that are analogous to the other elements of section 309(g).

Finally, section 309(g)(6)(A) provides that violations with respect to which a Federal or State administrative penalty action is being diligently prosecuted or previously concluded "shall not be the subject of" civil penalty actions under sections 309(d), 311(b), or 505. This language is not intended to lead to the disruption of any Federal judicial penalty action then underway, but merely indicates that a Federal judicial civil penalty action or a citizen suit is not to be commenced if an administrative penalty proceeding is already underway.

NOTICE OF CONSENT DECREES

This bill requires that, in connection with citizen suits, notification of proposed consent decrees be provided to the Attorney General and to the Administrator.

It was originally proposed in the Administration's bill 2 years ago. The Administration bill contained a clause which specifically disclaimed that the United States could be bound by judgments in cases to which it is not a party.

That provision merely restated current law and thus we decided that it is not necessary to include it in this bill. The amendment is not intended to change existing law that the United States is not bound, since that rule of law is necessary to protect the public against abusive, collusive, or inadequate settlements, and to maintain the ability of the Government to set its own enforcement priorities.

Compliance dates for industries for which effluent guidelines have not been promulgated have been extended to March of 1989.

We have had a big problem over when you have to come into compliance because of the guidelines. EPA has not been quick enough to come out and tell industry A or industry F what they can and cannot do. So we have reluctantly given them an extension on these guidelines. The latest is March 1989, or 3 years from the date of promulgation of the guidelines by EPA, whichever is sooner. EPA is strongly encouraged to get these guidelines finalized so industry can comply with the discharge requirements as soon as possible. Until such guidelines are promulgated, the Agency is expected to proceed under its current policy with respect to noncompliance dischargers to meet the deadline.

A provision establishing a progressive stormwater control program is included in the bill. Although the law now requires EPA to establish discharge requirements for the stormwater point sources, EPA has been unable to develop a final permit program for these sources. This legislation sets up a program whereby EPA must issue permits for storm water point source discharges in municipalities with population of over a quarter million within 4 years of enactment.

Within 5 years of enactment, permits for stormwater point sources discharges are required in cities with populations between 100,000 and 250,000. These discharge requirements are to contain control technology or other techniques to control these discharges and should conform to water quality requirements. Requirements for storm water discharges associated with industrial activities are unaffected by this provision. The Agency has been unable to move forward with a program, because the current law did not give enough guidance to the Agency. This provision provides such guidance, and I expect EPA to move rapidly to implement this control program.

The legislation also contains the Senate provision relating to the Chicago tunnel and reservoir project. This is something that has been around for many, many years. This provision only allows funding for this project under section 201(g)(1) without regard to the limitation contained in the provision if the Administrator determines that such projects meets the cost-effective requirements of section 217 and 218 of the act without any redesign or reconstruction. The Governor of Illinois must demonstrate to the satisfaction of the Administrator the water quality benefits of the project. This provision does not apply to the cost-sharing requirements under the other applicable provisions of the bill.

The legislation modifies EPA's current policy with respect to antibacksliding on best practical judgment and water quality-based permits. The thrust of this provision is to generally prohibit affected permittees from weakening their discharge requirements as a result of subsequently promulgated guidelines. Only in very narrow circumstances can backsliding be permitted, and in no event can it be permitted even if, after a discharger leaves a stream, there is an improvement in water quality, unless the antidegradation policy test is met. That test states that water quality may be lowered only if widespread adverse social and economic consequences can be demonstrated through a full intergovernmental review process.

S. 1 also embodies many of the construction grants and revolving loan fund proposals contained in the bill first passed by the Senate in 1985. In other words, this bill was passed, as I mentioned earlier, in 1985; we went to conference with the House, but we kept many of the provisions dealing with the construction grants and the revolving loan.

The bill extends the current $2.4 billion annual authorization for title II construction grants for 3 years. In fiscal years 1989 and 1990, the annual authorization for title II would be reduced to $1.2 billion. After that, there is no more; no further authorizations would be made for title II after fiscal year 1990, and the money is shifted over into the revolving grants program.

States would be provided with sufficient lead time to begin setting up State revolving loan programs. The bill encourages the creation of these self-sustaining financing entities at the earliest opportunity by providing each State with an option of converting title II construction grants funds into capitalization grants for SRF's.

Beginning in fiscal year 1989 and continuing in fiscal year 1990, $1.2 billion a year would be authorized specifically for capitalizing SRF's under the new title VI. In fiscal year 1991, the amount would be increased to $2.4 billion. Thereafter, the SRF authorization would gradually be reduced by providing $1.8 billion in fiscal year 1992, $1.2 billion in fiscal year 1993, and $600 million in fiscal year 1994. After fiscal year 1994, all authorizations for direct Federal contributions to municipal wastewater treatment or SRF's would be ended.

[In billions of dollars]

	Construction grants (title II)	Revolving loan fund (title VI)
Fiscal years:		
1986	$2.4	
1987	2.4	
1988	2.4	
1989	1.2	$1.2
1990	1.2	1.2
1991		2.4
1992		1.8
1993		1.2
1994		.6

The total authorizations for titles II and VI amount to $18 billion and will ensure that the core treatment-related needs identified in the 1981 amendments will be met.

This approach lives up to the commitment made by Congress and the administration to support an annual appropriation of $2.4 billion over the 10-year period of 1981 through 1991 to meet the needs for construction of wastewater treatment facilities. That commitment was restated by then-

EPA Administrator William Ruckelshaus at a budget hearing before the Environment and Public Works Committee in 1984. His statement is as follows:

> I think that while there may be some at OMB who would prefer not to see this kind of program continue, I have not run in personally to those people at OMB, and there is an understanding that there is an agreement with the Administration and with the Congress that for 10 years this level of funding, at least, is a commitment. If you will note, the difference between what we submitted to the President in terms of our budget and what we are now requesting is somewhat less. We went down to $2.4 billion as a result of that commitment. That was something the Administration put back into our budget over our submission.

A slight change in the allotment formula for grants to the States is contained in the bill.

The revolving loan fund embodied in this legislation presents a great opportunity for the States to eventually assume full responsibility for construction of wastewater treatment facilities in their jurisdictions.

States must first use the funds in the loan fund on projects needed to meet the 1988 municipal deadline requirement for secondary treatment. After that requirement is satisfied, loan funds may also be spent on activities eligible under the Nonpoint Pollution Program and the National Estuary Program.

In an effort to encourage cities to move forward with construction of treatment facilities to meet the 1988 deadline, the legislation allows for refinancing under the loan program of projects which were begun after March 7, 1985. Although these projects should be on the State priority list to be eligible for refinancing, prior agreements between the State and the municipality should be honored in the event the project is no longer on the priority list.

Mr. President, I would like to conclude by saying passage of this legislation gives us an opportunity to renew our commitment to the national goal of making all of our waters fishable and swimmable.

That was the goal we started out with when we started this legislation back in the early 1970's.

The Water Quality Act of 1987—this bill—strengthens the existing provisions of the Clean Water Act and establishes new cleanup programs which will greatly enable us to address a new generation of subtle—and more devastating—problems posed by toxic pollution, stormwater discharges, nonpoint pollution and contamination of sludges.

As I said earlier, a few months ago, the Senate passed this clean water bill by a vote of 96 to 0. I hope my colleagues will again give this legislation the same resounding show of support and vote "yes" to continue the job of cleaning up our Nation's waters.

This bill is within the agreed-upon authorization level of $2.4 billion for wastewater treatment facilities passed by the Senate and contained in the budget resolution. It provides for the orderly phaseout of the construction grants program. And most importantly, it gives the American people what has been reflected in public opinion polls conducted across the land as cited by the distinguished Senator from Maine [Mr. MITCHELL] previously—that they want clean water.

Once again, let me say how much I do appreciate the support and work of the chairman of our full committee, Mr. BURDICK; of course, of Senator STAFFORD, who has been such a tower of strength in these matters right from the beginning; of Senator MITCHELL, the new chairman of the Environmental Pollution Subcommittee, for everything he has done ever since he has been in the Senate. He has been a real leader in environmental matters and the Nation owes him a debt of gratitude.

I thank Senator BENTSEN, who has worked so hard in this matter and was a key man in the conference we held last fall; and all the other members of the Environment and Public Works Committee who have taken such an interest in this legislation.

Finally, I wish to thank the staff: Phil Cummings, Bob Hurley, Jeff Peterson, Ron Outen, Steve Shimberg, Jimmie Powell, Cathy Cudlipp and so many others. It is dangerous for me to get into naming them, but each of them has worked very, very hard on this legislation. As one member of the committee and as has been previously stated by other speakers, we are very much indebted to them for what they have done.

I thank the Chair.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Louisiana is recognized.

Mr. BREAUX. Mr. President, as a new Member of the Senate, let me say this bill is like the legislation that I supported as a Member of the other body. The House passed that bill, which is identical to this one.

I, too, want to thank the distinguished chairman of the Senate Environment and Public Works Committee, the Senator from North Dakota [Mr. BURDICK], and also the Senator from Rhode Island [Mr. CHAFEE] for their consideration, help, and assistance to allow the junior Senator from Louisiana to be involved in developing this legislation.

I echo the comments of the Senator from Maine [Mr. MITCHELL], the distinguished chairman of the subcommittee, when he spoke of the priorities in assessing the limited amount of funds that we have as a nation. Clean water is also part of the national security of our country.

I ask the question, how much is clean water worth? How much is the knowledge that the water we drink out of a river or the water that we drink from a stream or from a lake does not contain toxic chemicals that are carcinogenic? I think that is also a part of the national security of the United States.

I take the limited time I have right now to point to merely one concern that I and, I know, the senior Senator from Louisiana [Mr. JOHNSTON] particularly have concerning some of the features of the bill before the Senate at this time. Language was added to the Senate and the House bill last year that affected basically four companies who sought to discharge a particular product into the Mississippi River. The permit applications were pending for something like over a decade and no resolution to those permits from the Environmental Protection Agency had ever been resolved. Language was added to the bill which was also included in the bill before the Senate and has already been adopted by the House that seems to require that a permit shall be issued. It is the intent of this Senator at an appropriate time to offer a concurrent resolution which would clarify the intent of that language.

The concurrent resolution will point out in the language in the bill in section 306(c) that requires a permit to be issued within 180 days, that those permits must comply with applicable standards and procedures for the issuance of the best professional judgment permits under section 402(a)(1)(b) of the act. The intent of our concurrent resolution will be to point out clearly that section 306(c) of the bill does not in any way require the Administrator of EPA to permit the discharge of gypsum or gypsum waste into the Mississippi River; nor does it affect the authority of the State of Louisiana to deny or condition certification under section 401 of the act with respect to these particular permits; nor does that section alter the right of a party to challenge the permits using established administrative and judicial appeals.

I think, Mr. President, the real intent was to get some final resolution of these permits. It is inappropriate, I think everyone can agree, that when companies seek permits, the application should be dragged on for years and years and even decades without some final resolution to the permits—either grant the permits, deny the permits, or grant the permits with modification.

But do not kill the process by delay. That was the intent of the sections that were added to the bill in the last Congress which are carried over into this Congress and contained in this bill. I think the concurrent resolution which the chairman has allowed us to offer will clarify that particular intent of the section. I thank the distinguished members of the committee and we will proceed at the appropriate time.

The PRESIDING OFFICER (Mr. BREAUX). The Senator from Maine.

Mr. MITCHELL. Mr. President, earlier I gave a brief statement describing some of the key provisions in the bill. I indicated then that I would subsequently offer a detailed explanation of several additional provisions in the bill, and it is my intention to do that now.

I will, in the event other Senators desire to speak on this subject, yield during the course of this presentation.

[Mr. DASCHLE assumed the Chair.]

Mr. MITCHELL. I would like to address a number of the amendments to the act.

FUNDAMENTALLY DIFFERENT FACTORS

The bill provides for new authority for modifying control requirements for industrial facilities which are fundamentally different from other facilities in an industrial class. This provision is complicated and I would like to provide a detailed description of the provision and its objectives.

The Clean Water Act provides for the development of minimum, national, technology-based treatment requirements for industrial dischargers. These requirements address a range of industrial categories and include effluent guidelines applying to direct dischargers and pretreatment categorical standards applying to indirect dischargers.

The amendments provide the EPA Administrator with new authority to modify a minimum, national treatment requirement for an individual facility within an industry if the facility is found to be fundamentally different from other facilities within the industry on the basis of certain factors considered by the Administrator in establishing the guidelines or standards.

The new provision provides that a facility may be found to be fundamentally different based on factors identified in sections 304 (b) and (g). These factors include the age of equipment and facilities, the process employed, the engineering aspects of the types of control techniques, process changes, and other factors deemed appropriate by the Administrator.

The Clean Water Act currently provides for establishment of minimum, national technology-based requirements on an industrywide basis but does not allow modification of requirements on a plant-by-plant basis. The Administrator has been able to accommodate variation in an industry through development of different requirements for subcategories of an industry.

In addition, the Agency developed and implemented a procedure for establishing alternative treatment requirements for individual facilities based on a conclusion that the facility is fundamentally different from the industry. These regulations were recently upheld by the Supreme Court. While there is currently no basis for the regulations in the act, the conferees concluded that some expansion of the Administrator's authority in this area is an appropriate addition to the act.

This new provision provides a clearly defined and limited authority in the statute for modification of treatment requirements for individual facilities. The provision is intended to assist the Administrator in addressing variation in development and effective administration of the national effluent guidelines and standards.

The conferees intend, however, that the Administrator use the new authority in this section sparingly. Applications under this section should be assessed with the objective of accounting for unique situations encountered in implementing national, minimum treatment requirements. Unless the circumstances of a facility are unique, the Agency should accommodate fundamental differences among facilities through the establishment of subcategories within an effluent guideline. This section should not be used in place of complete definition and subcategorization of an industry.

The conferees recognize that this section will require the EPA Administrator to make difficult decisions with regard to the magnitude of differences among similar facilities within an industry. In exercising this judgment, the Administrator should place high priority on the principle that all industries within a category or subcategory are to meet national, minimum, treatment requirements. The authority of this section is intended only to provide the Administrator with the authority needed to implement this aspect of the statute effectively and should not be used to generally relax or retreat from national, minimum requirements for an industry.

This new provision places several important limits on this new authority. These limits concern consideration of costs to a facility and procedural and other limitations.

The bill specifically excludes consideration of costs as a basis for establishing a fundamental difference with regard to an individual facility. Section 304 of the Clean Water Act authorizes the EPA to consider the cost of achieving effluent reductions, in addition to other factors, in development of a guideline for an entire industry. The EPA needs to consider cost when developing a guideline for an industry in order to determine the best available technology for water pollution control which is economically achievable for an entire industry.

Individual facilities, however, may face costs which are higher than costs to the majority of other facilities in an industry. A facility might find that differences in costs cause it to be fundamentally different from other facilities and contend that these differences justify modified treatment requirements. For example, costs of labor, transport or materials might be presented as fundamentally different.

While a guideline is intended to account for economic impact on an entire industry, it is not intended to account for the economic impact on each individual facility. The 1972 Clean Water Act conference report stressed this point, directing EPA to "make the determination of the economic impact of an effluent limitation on the basis of classes and categories of point sources, as distinguished from a plant-by-plant determination."

If a facility facing higher costs than the overall industry is allowed to reduce treatment levels below the minimum level, the degree of pollution control at a facility is linked to the economic efficiency of the facility, rather than the economic ability of the industry, and the principle of an industrywide minimum level of treatment loses it meaning.

Although the act does not and should not provide a mechanism to modify the requirements of an effluent guideline on the basis of fundamentally different costs at an individual facility, section 301(c) of the act provides for modification of requirements in a case where such requirements are beyond the economic capability of the owner. Section 301(c) does not allow the Administrator to modify treatment requirements based on a showing of fundamentally different costs to an individual facility, unless these costs are beyond the economic capability of the facility and, therefore, threaten its survival.

In addition, section 301(c) is subject to section 301(l), which prohibits the Administrator from modifying any requirement as it applies to a toxic pollutant. This provision assures that toxic pollutants will be controlled, regardless of the economic capability of the discharger. The new authority for treatment modifications based on fundamentally different factors contained in the reported bill is not subject to section 301(l).

This provision is not intended to prohibit the EPA from modifying treatment requirements in a case where a fundamental difference in an aspect of a facility which is eligible for consideration—for example, age of facility, process employed—would result in a reduction in costs to a facility.

When such an eligible factor is under review, the EPA may consider the costs specifically associated with that factor, but must be able to justify a finding of a fundamental difference primarily on the basis of a substantive and technical assessment of eligible factors. The EPA shall not replace a substantive and technical assessment of eligible factors with a shortened cost test designed to indicate a fundamental difference—for example, when the costs of an eligible factor at an individual facility are twice the costs at average facilities, the factor is fundamentally different.

The reported bill specifies several procedural requirements and other limitations governing applications for modifications under this section.

Section (n)(1)(B) provides that an application be based solely on information and supporting data submitted to the Administrator during the development or revision of a guideline or on information the applicant did not have a reasonable opportunity to submit during the rulemaking. The lack of a reasonable opportunity to submit information is based solely on a lack of actual or constructive notice of the rulemaking.

This provision will assure that effluent limitations and standards are as comprehensive as possible, and thereby reduce the need for applications under this subsection. This provision will also discourage withholding of information during the rulemaking process for subsequent use in an application for treatment modification under this subsection.

In addition, where the record is already closed and an applicant has new information to present bearing on the guideline or standard, the applicant continues to have the right to petition the Administrator to reopen the rulemaking and record and consider creation of a subcategory. The Administrator's disposition of such a petition is subject to judicial review under section 509(b) of the act.

Section (n)(1)(C) provides that the alternative requirement imposed on the applicant can be no less stringent than justified by the applicants' fundamental difference from the rest of the category or subcategory with respect to eligible factors.

Section (n)(1)(D) provides that any alternative requirement shall not result in a non-water-quality environmental impact which is markedly more adverse than the impact considered by the Administrator.

Section (n)(2) requires that an application under this section shall be submitted within 180 days after the publication of the initial guideline or standard. Section (n)(3) provides that an application shall be approved by final Agency action within 180 days after submission. For the purposes of this section, final Agency action means the administrative decision issued by the EPA, following public notice and comment, as appropriate and including a statement of the basis for the decision. Section (n)(4) states that the Administrator may allow the applicant to submit clarifications with regard to information submitted in an application prior to the 180 day decision deadline.

Section (n)(5) provides that an application for an alternative requirement based on fundamentally different factors which is pending on the date of enactment may be amended by the applicant within 180 days after such date of enactment. This provision is intended to allow applicants with pending applications developed under EPA regulations pertaining to fundamentally different factors to revise the applications to reflect the requirements of this new section of the statute.

Section 301(n)(6) provides that an application for an alternative requirement under this section shall not stay the facility's obligation to comply with the effluent limitation guideline or standard which is the subject of the application.

This provision is intended to prevent EPA or the State, or the POTW in the case of indirect discharge, from delaying issuance of the permit or pretreatment mechanism during the pendancy of an application. If an application for an alternative requirement is denied by the Administrator, the applicant must comply with the limitation or standard as established or revised. This section is subject to section 301(b) and 309 as to compliance dates.

This section shall apply to existing primary and secondary national effluent limitations and categorical pretreatment standards for industrial categories, such categories as may be identified in the future, and to any revisions of guidelines or standards for such categories.

The Administrator may not use the authority of this section to modify effluent standards issued pursuant to section 307(a)(2) of this act, the general prohibited discharge standard in 40 CFR 403.5, or other requirements implementing such standards.

The owner or operator of a facility has the burden of proving to the satisfaction of the Administrator that the facility is eligible for an alternative requirement under this section. The Administrator's decision to promulgate or deny an alternative effluent limitation or standard under this subsection shall be subject to judicial review pursuant to section 509(b)(1) of the act.

This new authority is intended to provide for modifications of requirements for conventional, nonconventional, and toxic pollutants. Consistent with this objective, section 301(1) of the act, which excludes toxic pollutants from modifications under this act, is amended to allow modifications under this section for toxic pollutants. This amendment to section 301(1) does not in any way weaken the application of the section to modifications under the act other than provided under this subsection (301(n)).

The Administrator may not delegate the authority provided by this subsection to any State. In addition, it is our intention that the authority of this section be exercised only by the Administrator or Assistant Administrator for Water, rather than regional or other officials. The Administrator shall obtain the concurrence of a State before approving any alternative requirements under this subsection.

All of these provisions are to be self-implementing and are to take effect upon enactment of the Clean Water Act Amendments of 1985. The Administrator is encouraged to amend the appropriate regulations to make them consistent with these requirements; however, the failure of the Administrator to make such revisions will not affect the implementation of these provisions.

A related provision provides new authority for the EPA to collect fees for the processing of various modifications of permits and other requirements.

Substantial Federal resources are being devoted to processing application for modifications authorized by the Clean Water Act. Section 301(o) of the reported bill requires the Administrator to establish a system of fees to recover costs of reviewing and processing these applications. Applications, including resubmitted applications, are to be accompanied by an appropriate fee, as determined by the Administrator. The Administrator may develop a tiered or sliding scale fee structure so long as the aggregate amount of fees collected reflects the Federal resources actually expended in processing such applications.

Fees collected under this section shall be deposited into a special fund in the U.S. Treasury entitled "Water Permits and Other Services." Such funds are to be available for appropriation and to remain available until expended and are to be used to carry out the Agency activity for which the fee was charged. Creation of this special fund will assure that fees charged for processing of applications will be used to support water permit related activities, rather than other activities. The existence of this fund shall not be a basis for reductions in funding levels for related program activities.

In addition, the conference report agreed to last year provides that, in the case of three cane sugar processing mills on the Hamakua coast of Hawaii, the EPA may temporarily withdraw the applicable guideline at any time, issue a best professional judgment permit to affected facilities, and then reissue the guideline with an appropriate subcategory. This portion of the conference report expresses Congress' expectation that EPA will provide environmentally sound administrative relief to these facilities.

Section 306(c) of the bill applies to four fertilizer manufacturing plants located in Louisiana. After the passage of H.R. 1 we will be asked to pass a concurrent resolution clarifying and correcting the text of section 306(c). The intent of the provision, however, will remain the same. The Administrator is directed to issue permits for these plants under section 402(a)(1)(B) of the Clean Water Act. The plants are identified in subsection (c)(1) with reference to the Administrator's proposed action with respect to the plants, and the Administrator will have completed that proposed action before acting under section 402(a)(1)(B).

There are three potential types of discharge associated with fertilizer plants of this kind—storm water, cooling water, and gypsum. Section 306(c) does not require that a permit be issued for the discharge of gypsum into the navigable waters. Under this authority, EPA could issue a permit imposing limitations on the discharges of storm water and cooling water while prohibiting the discharge of gypsum altogether.

Section 306(c) does not change the standards or procedures used by the Administrator, or increase the discretion of the Administrator, in issuing permits under section 402(a)(1)(B) of the Clean Water Act. It does not mandate that a discharge of gypsum be allowed under any permit, nor does it in any way compel the State of Louisiana to affirmatively concur in the issuance of such permits. The State retains its authority to deny or condition certification under section 401 of the act for such permits, and the Federal permits lack force or effect in the absence of such certification and affirmative concurrence by the State.

It is not the intent of this provision in any way to encourage or sanction the issuance of permits by EPA which would provide for the discharge of gypsum waste into the Mississippi River.

NONPOINT SOURCE POLLUTION CONTROL

In using grant funds under this section for the implementation of approved programs or plans, States are not to provide assistance to individuals for construction of pollution control facilities unless such assistance is in the form of a demonstration program, as determined by the Administrator.

State's may include other Federal assistance programs, including programs of the Department of Agriculture involving grant and loan assistance and cost sharing, in overall programs for control of nonpoint pollution.

States may use funds available in the new State revolving loan funds for the implementation of nonpoint programs developed under this section. Loan funds must be used in a manner consistent with all the provisions of title VI of this act.

For example, once a State has assured progress toward compliance with the deadline for construction of secondary treatment facilities, the State may make loans or provide otherwise eligible assistance to nonpoint pollution related projects.

Such loan or other assistance may be made to individuals or organizations, as well as muicipalities and other governmental units. For example, a State may provide a loan to a farmer to construct a manure storage facility if such facilities are called for in the approved State nonpoint pollution control program. A State might also provide assistance to a municipality to implement programs to control urban runoff.

STATE REVOLVING LOAN FUNDS

The provision provides that the Administrator and States may enter into capitalization grant agreements under this title.

States must agree to accept payments under a schedule to be developed jointly with the Administrator, must agree to provide a 20-percent match of Federal funds, and must agree to make binding commitments for assistance in an amount equal to 120 percent of the amount of the grant payment within 1 year. Moneys contributed by a State to match Federal capitalization grants under section 602(b)(2) are to be cash and not in-kind.

The schedule under which payments are to be made by the Administrator to the State shall be developed jointly by the State and the Administrator. Such schedule shall be based on the State intended use plan and shall provide that payments be made as expeditiously as possible, consistent with such plan. At a minimum, payments shall be made not later than the earlier of 8 quarters after the date funds were obligated by the State or 12 quarters after the date such funds were allotted to the States.

In addition, the State must agree to assure, as part of the intended use plan submitted annually, that all Federal and State funds provided to the SRF will be committed in an expeditions and timely manner. This provision reinforces the requirement that States make binding commitments for funds within 1 year of any given payment to the fund.

Subsection 602(b)(5) refers to all Federal funds, in the form of capitalization grants, and all other funds in the SRF as a result of those capitalization grants, including repayments of loans originating from those grants and State funds contributed as the required match for those grants, and funds deposited in the fund under 205(m).

The State must use these funds first to assure maintainence of progress toward compliance with the enforceable deadlines, goals, and requirements of this act, including the municipal compliance deadline of July 1, 1988, or are on enforceable schedules for compliance after that date.

Progress toward compliance with enforceable deadlines, goals and requirements of the act, in the case of treatment works that are not voluntarily on a schedule to achieve compliance, may be assured through a funding commitment or through establishment of an enforceable compliance schedule.

Thus, the requirement of subsection 602(b)(5) is met if treatment works in a State are on an enforceable schedule to achieve compliance with uniform secondary treatment requirements of the act, whether or not there is a commitment to fund such treatment works from a State revolving loan fund or with a grant under title II of this act.

Governors of each State shall make the determination of progress toward compliance required under this subsection and the Administrator shall oversee such determinations.

Once a State has met the requirement of subsection 602(b)(5) funds from the SRF may be used for any other treatment works as defined by section 212 of the act—subject to the restrictions of section 602(b)(6)—programs and projects identified under the Nonpoint Source Pollution Control Program—section 319—or programs and projects identified under the National Estuaries Program—section 320.

This provision is intended to allow States the flexibility to utilize funds from the SRF to support a variety of measrues that the State determines are needed to achieve water quality goals. States are free to fund a wide range of pollution control projects, other than municipal wastewater treatment works, once the requirement for assuring progress toward compliance with the 1988 compliance date is met.

Further, a State must demonstrate that any treatment works which is constructed in whole or in part prior to fiscal year 1995 with funds directly made available by capitalization grants under this title or section 205(m), will meet the requirements of the sections 201(b), 201(g)(1), 201(g)(2), 201(g)(3), 201(g)(5), 201(g)(6), 201(n)(1), 201(o), 204(a)(1), 204(a)(2), 204(b)(1), 204(d)(2), 211, 218, 511(c)(1) and 513.

This restriction on the use of Federal capitalization grant funds does not apply to funds contributed by the State in accord with section 602(b)(2), monies repaid to the fund, or other money. State Governors shall assure that the requirements of this subsection are met.

Section 201(g)(1) limits assistance to projects for secondary treatment or more stringent treatment, or any cost effective alternative thereto, new interceptors and appurtenances, and infiltration-in-flow correction. This subsection also provides that State Governors may reserve 20 percent of a State's allotment for projects which meet the definition of treatment works in section 212(2) but are otherwise not eligible for assistance under this subsection. This Governor's reserve is intended to apply to funds made available under this title.

Section 201(n)(1) provides that funds under section 205 may be used to address water quality problems due to discharges of combined stormwater and sanitary sewer overflows, which are not otherwise eligible, if such discharges are a major priority in a States. This provision is intended to apply to use of funds under title VI as well as section 205.

As noted above, the fund may be used to assist publicly owned treatment works as defined by section 212 of the act, the development and implementation of a nonpoint source management program established under section 319 and development and implementation of an estuary program under section 320. This provision is intended to provide a basis for funding of projects to control nonpoint pollution and pollution to estuaries conducted by municipalities, a State, other public organizations, or individuals. All fund management provisions of this title apply to such projects.

The definition of projects eligible for funding under the loan program includes publicly owned treatment works as defined by section 212 of the act. This definition includes planning and design as defined in 212(1), treatment works as defined in 212(2) and replacement as defined in 212(3). Each of these aspects of treatment works is eligible for assistance under this title.

Funds under this title may be used to make loans as provided under section 603(d), but are not to be used to provide direct grants. If as a result of audits under this section, the Administrator finds a consistent and substantial failure to repay loans, he may take corrective action as provided under this title.

This section provides that loan funds may be used to refinance debt obligations of municipalities for eligible projects, where such obligations were incurred after March 7, 1985. This provision is a very important element of the Loan Fund Program in that it allows municipalities and States to work out financing plans which will allow a community to proceed with financing and construction as soon as possible and to achieve water quality benefits as soon as possible. Based on this authority States may agree to participate in project financing at a later date. The requirement in subsection 603(g), providing that municipal wastewater treatment projects be included on State priority lists is not intended to prevent a State from providing such refinancing assistance.

Section 603(h) limits the authority of subsection 603(d)(2) by providing that funds may not be used to make direct loans to support the non-Federal share of a project receiving assistance under title II of this act.

This limitation on direct loan assistance does not include ancillary assistance to the municipality which results in a lowering of costs of the obligation, for example, guarantee of the local share obligation, insurance of the obligation, et cetera. Such indirect assistance to support the costs of non-Federal share shall only be available to municipalities which face severe financial constraints preventing a project from proceeding.

The provision provides for the allotment of funds to States, reservation of funds for planning, and the reallotment of unobligated funds. Funds reserved for water quality management planning under this provision are to be used by the State agency which conducts environmental programs, rather than an agency established to manage the financing of projects with funds provided under this title.

Funds available to States under section 205(g) for the management of construction grant programs under title II may be used to assist the development of revolving loan funds under this title.

MARINE BAYS AND ESTUARIES

Section 210 of the amendments provides for set-aside of a small part of the construction grant fund to support projects for prevention of pollution to marine bays and estuaries resulting from combined storm water and sanitary sewer overflows. It is the intention of the conferees that, for the purposes, of this section, the term "marine bays and estuaries" shall be defined consistent with the definition of estuarine zone in section 104(n)(4) of the act.

It is not the intention of the conferees that this set-aside be used for projects at the upper reaches of tidal influence of a river which eventually enters into an estuary.

OTHER FEDERAL ASSISTANCE

Section 202(f) of the act provides that assistance made available by the Farmer's Home Administration may be used to provide the non-Federal share of a construction grant project under title II of the Act. This provision states the policy of the conferees that such assistance in support of a local share is acceptable, and has been acceptable in the past. The adoption of the provision shall not be construed to imply that, prior to this action, such support for a local share was not acceptable or consistent with congressional intent and policy.

REGIONAL WATER QUALITY PLANNING

Another important amendment to the act provides that States are to pass through at least 40 percent of funds made available under section 205(j)(1) to support water quality management planning at the areawide and interstate level.

The provision was modified by the conferees to assure that a Governor, with the approval of the Administrator, could provide less than 40 percent of funds to such organizations if such funding would not significantly assist in water quality management planning. The conferees do not intend to imply that funding for areawide organizations should be limited to 40 percent of funds under section 205(j)(1). It is not the intention of the conferees that the requirement for passthrough of 40 percent of funds to areawide agencies apply to section 205(j)(5) funding.

SECTION 301(i)

The amendments also provide a specific period of 180 days in which communities may apply for variances under section 301(i). The conferees intend that no application whatsoever may be made under section 301(i) after the 180-day period following enactment of the amendment. In addition, the amendment provides that communities which are on a compliance schedule are not eligible to apply for a variance under section 301(i) at any time.

This provision includes any community which is on a schedule established prior to enactment by a court order or an administrative order established by the EPA or a State agency. In addition, the Administrator has discretion in granting variances under section 301(i).

The conferees encourage the Administrator to use this discretion to deny applications for variances under section 301(i) where necessary to preserve the stable and effective implementation of the National Municipal Policy and related agency policies.

ADMINISTRATIVE PENALTIES

The amendments provide for new authority for the EPA to use administrative penalties in enforcement of the Clean Water Act. This provision will substantially increase the agency's authority to assure full enforcement of the act. The amendments provide that the EPA may use the administrative penalty authority in enforcement cases related to activities which do not have permits as required under section 404 of the act. It is the intention of the conferees that EPA use this authority to provide for full and aggressive enforcement of section 404.

It is also the intention of the conferees that the EPA and the Corps of Engineers develop a memorandum of understanding to provide for the efficient coordination of enforcement activities related to section 404. Such an MOU should be developed as soon as possible, but not later than 6 months after the date of enactment.

EPA has the authority to use administrative penalty authority prior to the development of such an MOU. In the event that the EPA and the ACE are not able to agree on an MOU, EPA retains the full authority to implement administrative penalty authority related to section 404 as provided in these amendments.

COMPLIANCE DATES

The amendments also provide new requirements for compliance with treatment requirements of the act. The conferees believe that these new dates are responsible and reasonable can be achieved in virtually all cases. In an unusual case where a date cannot be met despite the conscientious efforts by a facility, the conferees understand that the EPA is able to exercise its discretion with regard to enforcement and penalty authority.

In addition, it is the intention of the conferees that any action by a regulated industry to initiate litigation related to a control requirement which results in a delay in accomplishment of controls, is not a basis for the EPA to exercise its enforcement discretion.

Industries which choose to challenge pollution control regulations in court should not expect that the EPA will use its enforcement discretion and should expect that EPA will fully enforce requirements and compliance dates, regardless of court challenges.

Mr. President, in accordance with the previous unanimous consent I now yield to my colleague from Montana, the distinguished Senator BAUCUS, who as a member of the Committee on the Environment and Public Works played a key role in the development and enactment of this legislation last year.

Mr. BAUCUS. Mr. President, I thank the Senator from Maine. The Senator from Maine, who is now chairman of the Subcommittee on Environmental Pollution of the Committee on Environment and Public Works, has given yeoman leadership in this area. In fact, if it were not for the combined efforts and also those on the other side of the aisle, this legislation would not be before us today. I see Senator CHAFEE on the floor. The ranking minority member of the Subcommittee on Environmental Pollution of the Committee on Environment and Public Works, Senator STAFFORD, ranking member and former chairman of the committee is not here. Each of them deserve the thanks of the American people for all of the work they have done to bring this bill to the point where it is in the Senate and their help to secure its passage, and also to have the veto overridden in the event there is a veto.

Mr. President, it is fitting that H.R. 1, amendments to the Clean Water Act, is the first bill introduced and will be the first major piece of legislation acted upon by the Senate in the 100th Congress.

This legislation before us today does what the President asked for. It is fiscally responsible. It abandons any Federal role in funding the Nation's water cleanup program. The legislation has the strong support of the American public.

As recently as 5 years ago, the Federal Government contributed as much as 75 percent of the cost of the Construction Grants Program. On the other hand, the legislation before us today cuts current construction grant authorizations by more than half. The legislation, furthermore, totally phases out the Federal grants in 9 years.

After 1994, there would no longer be a Federal Sewage Treatment Construction Grant Program. The job of cleaning up the Nation's backlog of waste treatment will fall squarely on the shoulders of the States, as provided for in this bill.

Too often, Congress tends to focus on the public works provisions of the Clean Water Act and tends to forget that the Clean Water Act is an environmental law.

The Clean Water Act is first and foremost a pollution control law. Its purpose is not simply to address a sanitary engineering problem and create public works jobs—although we all realize it has been very effective in that regard.

The Clean Water Act, when developed in 1972, was based on two concepts and a compromise. A national goal was adopted calling for a twofold objective: To eliminate the discharge of pollutants, and maintain the biological integrity of our water. Then, as a compromise, an interim goal was added: To assure that water quality would at least support fish, shellfish, wildlife, body contact sports, and drinking water.

The first goal is as poignant and relevant today, as it was when it was adopted in 1972. We have made progress, but even the compromise goal euphemistically referred to as "fishable, swimmable" has not been fully achieved.

These goals are the real issues confronting us today. These are the goals for which the American public will hold us accountable. It is not a debate between $12 or $18 billion. It is a debate over what we want our lakes, rivers, and streams to be.

The problem of nonpoint source pollution was also recognized in 1985 by passage of the farm bill. Farm legislation, when fully implemented in 1995, will reduce sedimentation from cropland by as much as 80 percent.

The nonpoint pollution control program in the Clean Water Act will ensure action on the other sources of nonpoint pollution. Together the provisions go hand in glove. This legislation will provide the driving force to control water pollution from rangelands, forestlands, urban areas, and other sources of nonpoint pollution.

These two laws will provide the potential for significant improvement of our Nation's lakes, rivers, and streams. The nonpoint pollution control program in the legislation is an important element in meeting the goals of the original Clean Water Act.

The benefits of a continued commitment to an adequately funded Construction Grants Program cannot be overemphasized. But in a rural State such as Montana and throughout the entire country, the greatest benefits from this legislation will come from the nonpoint program and other regulatory aspects of the legislation.

It is in the area of environmental policy where the administration-proposed legislation would do the most harm. The administration's nonpoint program amounts to no program at all. In fact, we cannot realistically expect any State to take money from the construction program to pay for a nonpoint program when we have cut construction in half and will eliminate it completely in 9 years.

The administration proposes to retreat from this step forward. The administration's bill would make a mandatory program permissive. It would then force a State to choose between addressing a serious nonpoint source pollution problem or assisting some community in the treatment of its sewage.

On the other hand, the legislation under consideration renews a commitment to address the problem of nonpoint source pollution. To meet this end, a commitment of monetary resources as well as policy is being made.

Mr. President, when the Federal

Water Pollution Control Act was enacted into law, the Federal Government adopted a goal of making the lakes, rivers, and streams of the entire country fishable, and swimmable, and reducing discharges of pollutants to zero.

In the case of those rivers and streams which were degraded, the law required cleanup. In the case of those waters which were already high quality, the law required protection.

Congress and the Federal Government entered into a commitment to the American public—to both existing and future generations—that our lakes, rivers, and streams would be clean and pure.

Coming from a State where the largest natural freshwater lake west of the Mississippi River—Flathead Lake—is still drinkable, and numerous mountain streams are pure, the value of protecting water as a national resource is readily apparent.

The Clean Water Act amendments, which were passed unanimously in the last Congress by both the House of Representatives and the Senate, build on and continue this commitment.

A commitment to a continued Construction Grant Program will ensure support for the control of community sewage. The gradual phaseout of Federal grants for construction of municipal sewage treatment facilities, combined with the authorization of State-revolving loan funds, represents a balanced but modest approach to an enormous problem.

If anything, the EPA's own needs assessment shows that these amounts are inadequate to fulfill the Nation's needs. That is the EPA. The EPA's own survey for 1986 shows a need for $75 billion by the year 2000, a figure far in excess of the $18 billion in the legislation to be made available by the Federal Government. It is irresponsible to call this legislation a budget buster. I repeat, in view of EPA's own assessment, it is irresponsible to call this legislation a budget buster.

Sewage treatment will continue to play an extremely important role in the ongoing efforts to curb water pollution, but included with the legislation is a strong commitment to address the problems caused by nonpoint source pollution and the need for special attention to maintaining the quality of our Nation's lakes.

But the real value of this legislation is the new provision representing a renewed commitment to the cleanup of nonpoint sources of pollution and establishing a national policy that programs for the control of nonpoint sources of pollution be implemented. It is this provision and other policy changes embodied in this legislation that warrant the support of this body. For this reason, I believe this legislation deserves the support of every Member of this body.

The level of funding provided in the legislation will allow States to implement nonpoint source management programs. The problem of nonpoint source pollution is a national problem requiring a national solution.

Mr. President, I yield the floor.

Mr. MITCHELL. Mr. President, under the prior agreement, I yield to the Senator from Nevada.

The PRESIDING OFFICER. Without objection, the Senator from Nevada is recognized.

Mr. REID. Mr. President, I thank the Senator from Maine for yielding.

Mr. President, I rise in strong support of H.R. 1, the Water Quality Act of 1987. As has been pointed out, this legislation is identical to the Clean Water Act reauthorization legislation adopted last year by a unanimous vote of both Houses of Congress. Unfortunately, the President chose to veto this critical environmental legislation.

In brief, H.R. 1 authorizes $18 billion for grants and loans to help build local sewage treatment plants, and gradually shifts the responsibility for these programs to State and local governments. H.R. 1 also addresses the problems of toxic water pollution and nonpoint source pollution. Other provisions in the Water Quality Act of 1987 are aimed at improving water quality and restoring fish, wildlife, and economic and recreational opportunities in the Nation's bolstering U.S. efforts to comply with the 1978 Great Lakes Water Quality Agreement; and strengthening an existing program to improve water quality in lakes.

Not only is H.R. 1 supported by the House and the Senate, it enjoys strong support from environmental, industry, and State and local government organizations.

The goal of the 1972 Clean Water Act sought the eventual elimination of all pollution discharges into the Nation's rivers, lakes, and streams. Although this goal remains unmet, we have made considerable progress. In fact, the Truckee River in Northern Nevada is a good example of a river that has benefited from this landmark legislation. By investing in the objectives set forth in H.R. 1, we can realize the goals of the 1972 Clean Water Act.

As a cosponsor of S. 1, an indentical bill to H.R. 1, I urge my colleagues to give H.R. 1 the overwhelming support it deserves.

I appreciate the Senator from Maine yielding.

Mr. MITCHELL. I thank the Senator.

Mr. President, under the prior consent agreement I yield to the distinguished Senator from Tennessee who since entering the Senate has been one of the leaders in protecting the American environment.

The PRESIDING OFFICER. Without objection, the Senator from Tennessee is recognized.

Mr. SASSER. Mr. President, I thank the distinguished manager of the bill for his very gracious comments.

Mr. President, I am pleased that the 100th Congress begins with consideration of one of the most important pieces of legislation that we will consider—the Water Quality Act of 1987. And I am pleased to be an original cosponsor of this very, very important legislation. Given the paramount importance of clean water to the Nation, it is appropriate that the Water Quality Act of 1987 was the first piece of legislation introduced in the 100th Congress. It is my hope that this bill will be the first one passed by this Congress as well.

It is unfortunate that we are being forced to revisit this legislation. I was frankly surprised that the President chose to veto the Water Quality Act last November. The votes in both Houses reflected overwhelming support for the bill. The need for this bill was critical in cities and towns all across the United States. The President's veto of the Clean Water Act reauthorization, I am sorry to say, demonstrated a callous disregard for the health and safety needs of literally millions of Americans.

As a result of the President's veto, some $18 billion in grants for wastewater treatment facilities have been delayed. This delay has jeopardized construction of essential sewage treatment facilities in municipalities throughout the country. Many of these cities are already under pressure from the Environmental Protection Agency to have their sewage treatment plants upgraded to secondary status by 1988. The delay caused by the administration's veto has only made it more likely that this deadline will not be reached.

In my native State of Tennessee alone, more than 53 towns and cities have been affected by the delay in passage of this bill. Because much of the $35 million slated in this bill for Tennessee sewage treatment facilities and water quality improvement programs has not been forthcoming, many of these municipalities are facing facility construction slowdowns or halts. Fortunately, those of us on the Appropriations Committee saw the wisdom of continuing to fund the Wastewater Treatment Facility Grant Program this fiscal year at $1.2 billion, in the event that this bill was not signed into law. While this has allowed some Tennessee towns, such as McMinnville, to move forward with the expansion and upgrade of their treatment plants, many other Tennessee towns have not been so fortunate.

Mr. President, funding for wastewater treatment facilities is only one of the many important features of this legislation. The bill contains new programs to identify and control toxic pollutants in rivers, lakes, and estuaries. I am particularly interested in the Clean Lakes Program set forth in the act. This Clean Lakes Program recognizes that there is presently no comprehensive analysis of the quality of lakes nationally. What we do know is that many of our lakes are becoming impaired and that we need to formulate a program to address this problem.

I have seen such problems first hand, Mr. President. Last year, I travelled to Kentucky Lake, in western Tennessee to examine reports I had received on deteriorating water quality. What I found on this journey was very disturbing. Mussel divers in the Kentucky Lake area reported harvests of mussels are dramatically down, in some cases by as much as 75 percent. Commercial fishermen showed me catfish which were literally decomposing from within. More and more fish caught in this area were not suitable for human consumption. This we fear is caused by the water quality present in this lake. These firsthand reports were echoed in panel discussions I chaired on the quality of water in Kentucky Lake.

It is clear that the drought problems we have recently experienced in the Southeast added to the problems in Kentucky Lake. It is equally clear that we do not yet know enough about the causes of the pollution in Kentucky Lake, nor about the damage from this pollution in this lake to come to a conclusion.

I have called on Federal, State, and local government bodies to work together in attacking the problems in Kentucky Lake. The Clean Lakes Program in this bill can play a critical role in this effort. Indeed, including Kentucky Lake in the Lake Water Quality Demonstration Program established under the Clean Lakes Program would go far in addressing the problems in this beautiful lake that is so vital to the commercial well-being of areas of my State and also Kentucky. It is my hope that the Administrator of the Environmental Protection Agency will work with us to see that this magnificent lake, known as Kentucky Lake, is given high priority under this demonstration program.

For this reason, Mr. President, and for many others, I, frankly, believe that it is very essential that we move swiftly on this important piece of legislation. The American people will have a right to expect that their water will be clean. The American people have a right to expect that their Government will act in such a way that the environment will be protected not just for this generation but for future generations.

So I am confident that my colleagues will once again give this legislation the resounding support that it is entitled to.

Mr. President, at this time I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee has yielded the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, I have a chart which compares the three bills: the original Senate bill, the House bill, and the conference report. The reason that I would call them to the attention of this body is to better understand what took place in the conference. That, of course, is the bill that we have before us today.

Let me first just give the overall totals. The Senate bill which passed here originally—actually it passed on the June 13, 1985, which gives you some indication of how long we have been dealing with this clean water business, this legislation—had a total cost of $19.6 billion. That passed June 13, 1985. Along came the House with its bill, which it passed over there on July 23, 1985, the same year. That bill was not $19.6 billion, but that was $26.9 billion. That is what we went to conference with: the House bill being almost $26.9 billion, the Senate bill being about $19.6 billion.

So there is about a $7 billion difference.

The legislation that came back as a result of the conference, the bill we are considering here today, is $20.7 billion. In other words, we went up $1 billion in the Senate bill that we went into conference with, and the House came down $6.2 billion.

What happened to some of the measure?

Just to give you examples, and these are some of the special projects, these were the things that upset the administration, I believe rightfully so, and that we succeeded in eliminating.

Puget Sound, in for $1.2 billion in the House bill, zero in the Senate, and in the conference we came out with zero.

New York-New Jersey harbor, $40 million in the House bill, zero in the Senate, zero in the conference report.

San Francisco Bay, $18 million in the House bill, zero in the Senate, zero in the conference.

Newtown Creek, $300 million in the House bill, zero in the Senate, zero in the conference.

Naco, TX, $10 million in the House bill, zero in the Senate, zero in the conference.

Deer Island, Boston, $30 million in the House bill, zero in the Senate, zero in the conference.

Des Moines, $85 million in the House bill, zero in the Senate, and $50 million in the conference.

And so it goes.

I think the administration should be very grateful that we are able to beat down these amounts. Not only that, but the other key point that I would make, particularly to the administration, is that this legislation comes to an end. When we finish this in 1993, there are no more Federal appropriations for wastewater treatment facilities.

Mr. President, I ask unanimous consent that this document be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

COMPARISON OF AUTHORIZATIONS IN S. 1 (CONF), H.R. 8 (7/23/85), S. 1128 (6/13/85)

Major purpose	S. 1 (Conf)	H.R. 8 (7/23/85)	S. 1128 (6/13/85)
Construction Grants and Revolving Loan Funds	$18 billion	$21 billion	$18 billion
Sec. 104 grants	136m	160m	88m
State 106 grants	375m	375m	300m
Chesapeake Bay	65m	65m	65m
Great Lakes	55m	61m	50m
Areawide Planning	250m?	250m	
Clean Lakes	220m	425m	150m
Nonpoint Source	400m	750m	300m
National Estuary Program	60m	75m	60m
General Authorization	675m	550m	640m
Sludge Studies	5m	15m	
Alternative Water Supply		456m	
Groundwater Program		40m	
Groundwater Grants		510m	
Puget Sound		1,261m?	
NY/NJ Harbor		40m	
Narragansett Bay		9m	
San Francisco Bay		18m	
Newtown Creek		300m	
Naco Texas		10m	
Deer Island Boston		30m	
Boston Harbor	100m	100m	
Des Moines	50m	85m	
Oakwood Beach NY	7m	9m	
San Diego Tijuana (estimate)	300m	300m	
San Diego Reclamation	2m	3m	
Totals	$20,700m	$26,897m	$19,653m

Mr. CHAFEE. I thank the Chair.

Mr. STAFFORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr STAFFORD. Mr. President, I rise in support to H.R. 1. It represents over 4 years hard work by both bodies of the Congress. It is the same bill that was passed unanimously by both Houses last fall. Unfortunately, the President pocket vetoed that bill. We are here today to reaffirm our position in favor of environmental protection by passing the bill again.

As my colleagues already know, the House of Respresentatives passed this bill last week by a vote of 406 to 8. It is my hope and expectation that the Senate will pass this bill by an equivalent margin.

When we started the long process of reauthorization 4 years ago, we discovered that there was a compelling need to make improvements in the Clean Water Act. The bill before us accomplishes that. It narrows some troubling loopholes, tightens controls on toxic pollutants, and establishes a much needed program to manage runoff or nonpoint source pollution.

Just as importantly, it provides for an orderly phaseout of Federal subsidies for construction of sewage treatment plants. This was a difficult issue, as my colleagues will recall, but gradually we succeeded in building a political concensus for phasing out the grants program amd providing an orderly transition to State revolving loan funds.

I want to remind my colleagues that the Congress gave full consideration to the President's initial proposal to phase the program our more quickly. After due consideration, the Congress decided that $18 billion—divided between traditional grants and capitalization grants for the State revolving loan funds—is the minimum amount needed.

Indeed, Mr. President, many have said on appropriate scientific evidence that the needs of the country still run something on the order of $100 billion.

So as has been said before, the amount provided in this bill is the bare minimum that can move us ahead for fishable, swimmable waters in this country over the next several years.

My colleagues are well aware that the administration wants to knock this figure down by an additional $6 billion. I would say to my colleagues that we already have reduced this program as far and as quickly as we prudently can. If an amendment is offered to reduce the program further, this Senator will oppose it vigorously. We must keep faith with the American people and with the various parties with whom we forged a political concensus—the States, cities and towns, environmental organizations, and others.

Mr. President, this is a good bill, and it is a fair bill. It's contents and its intent are well explained in the conference report and floor statements at the end of the last Congress. This Senator is proud to have been a participant in its development. Unanimous votes are rare, but this bill passed both the House and the Senate 3 months ago without a single dissenting vote. This is a testment to the widespread political support that this bill enjoys.

Mr. President, in closing I would like to make a comment about congressional intent behind passage of this law. As has been noted, this bill is the same as the bill placed before the President last year. Therefore, the statement of managers on that bill, which is found in Report No. 99-1004, contains the primary legislative history on this bill. That statement of managers, as explained by conferees on the floor of the House and Senate last October, should be viewed by courts as the most authoritative statement of congressional intent.

Mr. President a vote in favor of this bill is a vote for the environment. This Senator and his colleagues who developed it, urges his colleagues earnestly to ratify their previous vote and again support this bill.

Mr. President, I yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MITCHELL. Mr. President, I commend the Senator from Vermont for his statement. I would simply like to say to the Members of the Senate and to the American people that for the previous 6 years Senator STAFFORD served as chairman of the Senate Committee on Environment and Public Works. He chaired that committee as fairly, as evenhandedly, and as effectively as was humanly possible, and it is due largely to his leadership and his example that the committee, the Senate, and the Congress were able to enact so much landmark environmental law, particularly in the closing days of the recent session.

In behalf of all of the members of the committee, and more importantly all of the American people, who benefit from his leadership, I want to thank and commend the distinguished Senator, the former chairman of the committee.

Mr. STAFFORD. Mr. President, if the Senator will yield, I simply want to express my appreciation for those very kind words and to say that without his leadership on his side of the aisle and his hard work on the committee generally we would not have enjoyed the success we did. I thoroughly enjoyed being chairman of the committee in those years and I know that the committee now, with the leadership of the Senator from Maine, will have further notable accomplishments.

Mr. MITCHELL. I thank the Senator.

Mr. LAUTENBERG. I would like to address an issue which has come up recently in the municipality of Edgewater in my home State of New Jersey.

Edgewater is planning to construct a facility to provide secondary treatment of sewage. The community developed facility plans and designs, but was not ranked sufficiently high on the State priority list to receive Federal funding in a timely manner.

In an effort to construct the plant as quickly as possible, the community worked with private firms to design and construct the facility. After the community entered into a contract for construction of a facility, they learned that Federal funding could be available after all.

I am concerned that, in order to proceed with Federal grant assistance, the community may be forced to abandon the work completed to date under the private agreements.

Would the Senator agree that, to the extent possible under applicable regulations, the EPA should be encouraged to avoid duplication of this work?

Mr. MITCHELL. Yes, I agree with the Senator. To the extent regulations allow, the EPA should be flexible in allowing the community to make use of this work.

Mr. LAUTENBERG. On a related point, I am concerned that the enactment of section 204 of the Clean Water Act amendments before us today may preclude the community from pursuing resolution of difference of interpretation of various Federal procurement and project management regulations. Is it the Senator's view that enactment of section 204 would necessarily prevent the community from challenging these regulations?

Mr. MITCHELL. I do not believe that section 204 should in any way prevent the community from challenging the existing regulations in question.

Mr. LAUTENBERG. I thank the Senator for his thoughts on this issue. I hope he will work with me in resolving any further issues that may arise relating to this project.

Mr. MITCHELL. I shall be happy to do whatever I can to assist the Senator in this effort.

Mr. GRAHAM. Mr. President, while I realize the urgency in approving the Clean Water Act without amendments, I would like to emphasize the need for Lake Okeechobee to be included as a priority demonstration project under the Clean Lakes Program. This Florida lake, which is the second largest freshwater lake in the United States and which feeds the Everglades, is dangerously close to eutrophication and is indeed worthy of priority designation.

Mr. MITCHELL. Mr. President, I realize the environmental significance of lake Okeechobee and the serious nature of the threat posed to the Lake by pollutants. Given the condition of this lake, inclusion is consistent with the intent of last year's conferees and we would direct the agency to include Lake Okeechobee as a priority demonstration project under the Clean Lakes Program.

Mr. GRAHAM. As the Senator from Maine is aware, I would have offered as an amendment the inclusion of Lake Okeechobee; however, given the need to avoid any amendments to the bill, I will accept this assurance based on the conferee's intent. I thank the Senator.

Mr. BAUCUS. Included within the legislation is an authorization for a comprehensive water quality investigation of the Clark Fork/Lake Pend Oreille system in Montana. The purpose of this study is to identify sources of pollution and to enhance the water quality of this lake and river basin. Lake Pend Oreille is the largest lake in Idaho whose waters drain approximately 22,000 square miles.

The Clark Fork River and Lake Pend Oreille are primary environmental features of western Montana and northern Idaho. The river and lake is an outstanding cultural and economic resource for the entire region.

Nutrient contamination and sedimentation from point and nonpoint sources of pollution are believed to be responsible for algae blooms, patches of floating scum and foam, and other signs of pollution in the lower rivers, reservoirs, and Lake Pend Oreille. Toxic mine runoff flowing into both tributaries and the mainstream have resulted in the designation of four Superfund sites along the river. As part of the remedial investigation being conducted under the authority of Superfund for the Silver Bow Creek site along a tributary in the upper Clark Fork River, the Environmental Protection Agency is investigating toxic contamination along approximately 60 miles of the river. Moving quickly to undertake this study will provide for a coordinated basinwide effort.

Mr. SYMMS. Mr. Baucus and I sponsored this amendment in recognition of the importance of this lake and river resource to the entire region. Tourism and recreation is the second largest and fastest growing industry in northern Idaho. This tourism is heavily dependent on the quality of Lake Pend Oreille.

Public conern for the protection and clean-up of the Clark Fork River and Lake Pend Oreille is broad-based and widespread in both Idaho and Montana. Recent events, including the discharge permit controversy at the Frenchtown Pulp Mill, have focused public attention on water quality degradation and a pressing need for a basinwide approach to water quality research and management.

Mr. BAUCUS. When this amendment was offered, we did not know what this study would cost; therefore, no specific authorization numbers were included in the legislation. Recently the State of Montana and the U.S. Geological Survey submitted a proposal to the Environmental Protection Agency to conduct intensive water quality investigations on the Clark Fork and Lake Pend Oreille. The State of Montana proposal for an assessment of nutrient pollution and euthrophication would require $500,000 over a 3-year period. Currently little reliable information exists to provide for the overall management of the lake and river. This portion of the study would benefit both Montana and Idaho.

Mr. SYMMS. The U.S. Geological Survey has developed a proposal for a detailed euthrophication study of Lake Pend Oreille which would require $800,000 over a 4-year period. This study, when completed, would provide a sound basis for resource decision in Montana and Idaho in order to protect the lake. It is important that both aspects of the study proceed together since they are meant to be coordinated.

Mr. MITCHELL. It is the intention of the conferees that this study be funded by EPA out of programs authorized by this legislation and any other appropriate sources of funds available to the Agency.

Mr. STAFFORD. Mr. Mitchell is correct in his explanation of the committee's intention. It is my understanding that the Clark Fork River and Lake Pend Oreille are degraded by point and nonpoint discharges into the water. By including a specific requirement for a Clark Fork/Lake Pend Oreille study, the committee has recognized the importance of a coordinated effort to undertake this study.

Mr. BAUCUS. I thank Mr. Mitchell and Mr. Stafford for their response. Much of the Clark Fork River drainage is comprised of public lands, largely part of the U.S. forest system. The U.S. Forest Service and the State of Montana have entered into a memorandum of understanding concerning the control of non-point source pollution. While the legislation requires the Environmental Protection Agency to undertake the study, am I correct in stating that it is the conferee's intention that the Forest Service fully participate in the study?

Mr. MITCHELL. Mr. Baucus is corrent.

Mr. BAUCUS. The Upper Clark Fork River is the site of a Superfund site at Silver Bow Creek, a site at the old Anaconda smelter and at Milltown Dam just outside of Missoula. The Environmental Protection Agency is currently undertaking a remedial investigation and feasibility study of these sites. The toxic waste problem has affected a large stretch of the river. There is an opportunity to coordinate the Clark Fork River/Lake Pend Oreille study with the Superfund investigations of the river. A coordinated approach which would not delay the ongoing Superfund effort would be the most cost-effective way to address the problem and would also ensure a truly comprehensive assessment of the river.

Mr. SYMMS. Mr. Baucus raises an important point. All pollutants which enter the river upstream of Lake Pend Oreille have a potential to impact the lake. The importance of Lake Pend Oreille to north Idaho cannot be emphasized enough. It appears to me to be cost effective and prudent to undertake a coordinated comprehensive assessment of the basin.

Mr. MITCHELL. Both Mr. Baucus and Mr. Symms raise important points. While this legislation before us today deals with amendments to the Clean Water Act, it makes good sense to coordinate efforts undertaken under this Act with activities undertaken under other environmental statutes. These programs should be coordinated to the maximum extent possible.

Mr. BAUCUS. I thank Mr. Mitchell and Mr. Stafford for their assistance.

Mr. SYMMS. I join with Mr. Baucus in thanking Mr. Mitchell and Mr. Stafford.

Mr. DURENBERGER. Mr. President, we are today considering the Water Quality Act of 1987. This is a bill to continue and expand the Nation's Clean Water Act which has since 1972 provided environmental protection for the quality of our lakes, streams, rivers and estuaries.

This reauthorization of the Clean Water Act has been developed over many years and reflects a blending and compromise of all views including those heard in both Houses, those expressed by members of both parties, views of the Congress and the administration, views of industry and the environmental community.

This legislation was considered by the Congress just before adjournment last year. It was adopted by the Senate 96 to 0. It was also adopted unanimously by the House of Representatives. Around here that is an almost unprecedented level of support for a major piece of legislation like this. The bill we introduce today is that same bill.

The bill adopted by the 99th Congress failed enactment due to a Presidential pocket veto. That was in my view a most unfortunate decision on the part of the President and his advisers. This legislation already includes much to accommodate the views, both budgetary and of a substantive nature, that were put forth by the administration and its representatives during the legislative process.

Our difference with the President comes down to a matter of budget priorities. I would say to the President that the Construction Grants Program has already made its contribution to deficit reduction. In 1981 when this administration came to office grants to State and local governments to build sewage treatment projects were approximately $5 billion per year. The administration insisted on a greatly reduced program and one that was restructured to eliminate many of the then eligible activities. And after a year of tough debate, a compromise was reached between the Congress and the administration to reduce and restructure the Construction Grants Program. For its part the Congress understood that compromise to include a 10-year commitment to fund the Construction Grants Program at $2.4 billion annually. And that is precisely the level of funding this bill provides.

This bill fulfills the promises made in 1981 when the Construction Grants Program was last reauthorized. One need not rely on my testimony as to the agreement reached between the Congress and the administration back in 1981. The record is replete with references to that commitment. For instance in a committee hearing on the 1985 budget proposal, Mr. William Ruckelshaus, then Administrator of the Environmental Protection Agency, described that agreement in these terms:

> There is an understanding that there is an agreement with the Administration and with the Congress that for 10 years this level of funding, at least, is a commitment. If you will note the difference between what we submitted to the President in terms of our budget and what we are now requesting is somewhat less. We went down to $2.37 billion, and it went back up to $2.4 billion as a result of that commitment. That was something that the Administration put back into our budget over our submission.

Mr. President, there you have Bill Ruckelshaus prosposing a modest cut in the Construction Grants Program and somebody at OMB telling him to take it back up to $2.4 billion because the administration had committed to that level for 10 years. That's a pretty good indication that a clear and solid pledge for funding had been made as a part of the 1981 reauthorization. Mr. Ruckelshaus is no longer at EPA, of course. And there have also been changes to OMB. But changes in advisers shouldn't be cause for abandoning commitments.

So it was unfortunate that this bill failed enactment last year. And I urge the President of the United States, in light of the history of this program, to reconsider his decision to withhold his signature from this bill. It is a good bill. It has broad support. It continues a necessary and successful program of the Federal Government. It is a tribute to the two members of our party, Senator CHAFEE and Senator STAFFORD, who had such a large role in bringing it to unanimous approval in both Houses of the last Congress.

We are here today largely as a result of the tireless work of the distinguished Senator from Rhode Island [Mr. CHAFEE], who was chairman of the Environmental Pollution Subcommittee in the 99th Congress. Along with Senator MITCHELL, the previous ranking member of the subcommittee, and Senator STAFFORD, the previous chairman of our full committee, the Senator from Rhode Island has spent long hours in hearings, markup, and conference sessions and floor debate to bring this bill to this point in the legislative process. This is a major piece of legislation. It has been pending before the Congress for several years. And over that whole period, Senator CHAFEE, has been a consistent champion of the Nation's water resources. He has shown no inclination to compromise the goals of the Clean Water Act just to get a bill and today his dedication to those principles is rewarded wth an excellent piece of legislation that adds much to a law which has already been quite effective in improving the quality of the Nation's surface waters.

Before turning to the substance of this legislation, let me just mention the role of two of my fellow Minnesotans who serve in the other body and who were instrumental in developing this legislation. Both Representative STANGELAND and Representative OBERSTAR from Minnesota serve on the Water Resources Subcommittee of the House and were active members of the conference on this legislation. All of us from Minnesota are proud of the contribution they have made to this bill.

The principal feature of this bill is a reauthorization of the Municipal Wastewater Treatment Construction Grants Program. Title II of the Clean Water Act has provided more than $40 billion to the cities of our country to build sewage treatment systems over the past decade and one-half. We add another $18 billion to that commitment with the enactment of this bill. But we also begin the process of phasing out the Construction Grants Program. During the phase down period, States will convert Federal grants into revolving loan programs so that Federal dollars can be recycled and will continue to protect the Nation's waters well into the future.

One controversial aspect of this legislation was the allocation formula for the Construction Grants Program. In June 1985, when the Senate was considering this bill for the first time, I felt compelled to put together a coalition of Members representing the Great Lakes States to protest the allocation formula that was included in the bill as reported by the Environment Committee.

The formula was grossly unfair to the Great Lakes States and would have threatened our efforts through the water quality agreement of 1978, an international treaty with our closest friend in the community of nations, Canada, to restore and maintain the quality of the waters of this international treasure. I will have further comments on the Great Lakes at a later point in this statement, but for now let me simply say that I am very happy to tell the Senate today that the construction grants allocation formula in this bill is fair to the Great Lakes States.

There are several other provisions of this legislation which should be mentioned in any thorough summary of its features; the Clean Lakes Program is reauthorized and extended to problems of acid mitigation for lakes damaged by acid rain; the bill contains a provision prohibiting backsliding from effluent limitations in existing permits; there is a new estuary program and a program to further the efforts to clean up the Chesapeake Bay; and we have established a new role for Indian tribes in achieving the goals and requirements of the Clean Water Act.

There are three major provisions of the legislation relating to nonprofit sources of pollution, stormwater discharges and the Great Lakes which I will discuss at length at a later point in the debate. Before doing so, let me, if I may Mr. President, make brief comment on the antibacksliding provision of this legislation. The purpose of the antibacksliding amendment is to assure that we keep the improvements in water quality that have already been accomplished under the act. There are exceptions to the antibacksliding requirement, both for permits based on best practicable judgments and those based on water quality standards. But even with the exceptions, the intent and effect of the legislation is clear. Except in extraordinary circumstances those improvements in water quality which have been achieved as a result of permits issued under the Clean Water Act will be maintained and other factors including improvements in water quality due to additional efforts under the act, the promulgation of different and less stringent effluent guidelines, or other unrelated cases, cannot be used as a justification to shutdown pollution control technology that is in place and operating to meet effluent limitations in existing permits.

NONPOINT SOURCE POLLUTION

The legislation we are reporting today establishes a new program under the Clean Water Act to develop management programs to control nonpoint sources of pollution.

The new section 319 of the act will require each State, individually or in combination with adjoining States, to submit a proposed nonpoint source pollution management program to the Administrator of the Environmental Protection Agency within 18 months of enactment of this legislation. These State programs will have seven principal elements.

First, they will identify waters within each State which are not expected to attain water quality standards or the goals of the Clean Water Act without control of nonpoint sources of pollution.

Second, the State programs will designate categories, subcategories, or particular nonpoint sources that contribute significant pollution to those waters.

Third, the State programs will identify best management practices, so called BMP's which will be undertaken to reduce pollution in each category or subcategory taking into account the impact of the proposed practice on ground water quality.

Fourth, the programs will include nonregulatory or regulatory measures for enforcement, technical and financial assistance, education, training, technology transfer, or demonstration projects to assist in the development and implementation of BMP's.

Fifth, the program will include a schedule containing annual milestones for utilization of the measures identified and implementation of the BMP's identified at the earliest practicable date.

Sixth, the program will contain assurances that existing State laws are adequate to carry out the proposed program or contain a stated intent to seek additional needed authority.

And finally, the State programs will identify Federal financial assistance programs and Federal development projects to be reviewed by the State for their consistency with its proposed nonpoint management program.

The provision that adjoining States may develop proposed programs together is intended to promote cooperation between States. Water quality problems may result from transboundary delivery of pollutions that are not sufficient to cause identification of the water body for controls in the upstream State, but which nonetheless contribute substantially to water quality problems in the downstream State. Until those upstream sources of nonpoint pollution are brought under control, the nonpoint source pollution problem in the downstream State may not be effectively resolved, as no measure of control applied in the downstream State will affect the pollution in the upstream State. In such case, the upstream State may have little incentive to incure program costs that will result in water quality benefits primarily to the downstream State. The Administrator is given the authority to provide extra funding for such interstate cooperative efforts under the provisions of the Water Quality Act of 1987.

A joint cooperative management program may also be appropriate when the affected water body is shared by more than one State, for instance, an estuary or lake or river that forms the boundary between two or more States.

In the conference on this legislation

last year, the Senate agreed to a House provision which provides for convening an interstate management conference when nonpoint pollution in one State causes water quality problems in another. Such a conference can be convened at the request of a State or by the Administrator acting on information which is available. If the conference reaches any agreement with respect to reducing nonpoint pollution in the upstream State, the program of that State shall be modified to reflect the provisions of the agreement.

This legislation requires each State to identify those waters within its boundaries which, after implementation of point source controls, will not attain or maintain water quality standards or the goals and requirements in the Clean Water Act without controlling nonpoint sources of pollution. The State need not demonstrate that the nonpoint sources of pollution are the sole cause for the water quality standards not being attained or maintained. The fact that the standards are not likely to be attained or maintained under existing conditions in the reasonably near future, and that there are loadings of pollutants from nonpoint sources of pollution that can reasonably be expected to be contributing to the water quality problems, will provide sufficient reason for a State to identify such water under this program. In identifying these waters, the State should not only focus on the immediately adjacent waters to the nonpoint sources, but also consider downstream segments, lakes, and other water bodies where such pollutants may accumulate and cause water degradation.

The reference to the water quality standards and to the goals and requirements of the Clean Water Act arises from the fact that not all water quality standards yet reflect the act's goals and requirements. In such cases, identification and control of nonpoint sources can contribute to improvement in water quality and upgrading of water quality standards.

In reference to specific nonpoint sources under section 319 the term "significant" is inserted to exclude trivial sources of pollutants or sources of pollutants which are not related to the water quality programs identified by the State program. The term "categories" in this subsection could include sources such as cropland, rangeland, pastureland, forestland, construction sites, industrial sites, mines, residential areas, streets, roads, highways, other developed land and wild areas. Within each of these categories, subcategories can be defined on the basis of characteristics such as geographical location, type of activity, size of facility, topography, and other factors. The State has broad discretion to establish categories and subcategories that are relevant and appropriate for the types of nonpoint source pollution that the State identifies and the BMP's will implement to control them. However, the categorization must be sufficiently comprehensive to include all significant sources.

Particular nonpoint sources as referenced in this section could be identified when they, in and of themselves, are significant contributors of pollutants, or in some way are sufficiently unique that they cannot reasonably be included in one of the categories or subcategories.

The term, "best management practices," is left undefined in this bill because of a concern that any definition would limit the States' flexibility and perhaps undercut existing programs in which best management practices have been identified, including conservation tillage, grassed waterways, cover crops, undisturbed field perimeters near waterways, and terracing. The selection of the appropriate BMP's in a particular instance would depend upon soil type, topography, desired crop, and other factors.

Best management practices have also been identified for reducing runoff from urban areas—including storm water containment structures—construction areas—including erosion barriers such as straw bales and dikes—silviculture areas—including careful road placement, culverting, grassing of abandoned roads and skid trails—and grazing lands—including herd and vegetation management.

States are required to consider the impact of management practices on ground water quality. Because of the intimate hydrologic relationship that often exists between surface and ground water, it is possible that measures taken to reduce runoff of surface water containing contaminants may increase transport of these contaminants to ground water. The State should be aware of this possibility when defining best management practices especially in aquifer recharge areas.

Mr. President, this legislation allows the States great flexibility to design management programs containing regulatory or nonregulatory components, or a mixture of the two. The list of possible program elements is not intended to be exclusive. It is expected that States will differ in the program strategies they adopt. However, a State program must have a clear purpose which is to achieve implementation of best management practices by the identified sources as soon as practicable so as to reduce nonpoint pollutant loadings and improve water quality within that State.

The State is expected to demonstrate that its management program will provide reasonable assurance that appropriate control measures will actually be adopted by the categories, subcategories and specific resources identified in the State's program. Further, the State is required to commit itself to a schedule containing milestones for implementation of BMP's by such source. This is a requirement that the State take responsibility for the effectiveness of its program in terms of implementing the best management practices by sources, as distinct from merely committing to carry out its identified program activities. The Administrator, in awarding subsequent program grants must consider the State's record in meeting these commitments and determine that the State is satisfactorily implementing its program.

Milestones for both program implementation and the implementation of best management practices by sources must be established to provide for implementation at the earliest practicable date. This requirement reflects the importance of nonpoint source pollution problem and is intended to demonstrate congressional intent that BMP's be implemented expeditiously. Consistent with this general requirement, States may establish different milestones for different categories of sources. No single date or statutory schedule is included in order to allow the State to take account of variations in the number and types of sources and pollutant reductions. Similarly, different States may commit to different schedules based on characteristics of the State's program.

The bill also provides that the States will identify Federal financial assistance programs and Federal development projects for which the State will review individual assistance applications and development projects for their effect on water quality to determine if they are consistent with the State's nonpoint source pollution management program.

This subsection is based on the provisions of Executive Order 12372. This Executive order, issued by President Reagan, replaces OMB Circular A-95 and establishes procedures by which State authorities may comment upon applications for Federal assistance and Federal development projects to assure that the federally supported activities and projects are consistent with State needs and objectives. This bill assures that the provisions of the Executive order, as in effect on September 17, 1983, will be applicable to the State's implementation of this review process, with respect to its nonpoint source management program, regardless of any subsequent revisions of the Executive order. The bill also allows States to designate any Federal assistance program or development project listed in the most recent Catalog of Federal Domestic Assistance, rather than just those programs and projects subject to the current Executive Order 12372. The purpose of this provision is to allow the State's to review any Federal program or project that the State determines needs to be reviewed for consistency with its nonpoint management program. This provision builds upon established procedures for State review of Federal activities. It will provide the States with an important tool to assure that proposed Federal assistance and development projects are implemented in a manner which the State deems consistent with its nonpoint source pollution management program.

In developing its program the States may use information developed under other pertinent sections of the Clean Water Act in the development of their programs, particularly the section 208(b) waste treatment management plans, if the State determines those plans to be consistent with the goals and objectives of this new section. States may also cooperate with local agencies or organizations in the development and implementation of their programs. This would include agencies receiving funding under section 205(j) of the Clean Water Act and soil conservation districts.

In many cases, information and institutional relationships developed under the section 208 planning process will be relevant to, and consistent with, the requirements and objectives of this bill. Many States relied upon regional organizations and the section 208 planning process to gather needed data about nonpoint source pollution and to promote local and regional cooperative pollution control efforts. The States are encouraged to build upon these program elements in constructing the program required by this bill. However, the bill does not require the use of section 208 plans or local agencies and organizations because some State programs have evolved well beyond the section 208 planning efforts, and also because some States gave inadequate or inappropriate attention to nonpoint sources in their 208 plans. In any case, the State has the flexibility to select the program elements that will most effectively fulfill the requirements and objectives of this bill.

The States are authorized to develop their programs on a watershed-by-watershed basis as is appropriate in a program that focuses on water bodies or segments which are not meeting water quality standards. However, this provision should not result in fragmented programs farmed out to local agencies or organizations. We are establishing State programs in this section and expect central, policy-setting direction from the States in implementing this program. In that regard, Mr. President, I would highlight a significant difference between the House and Senate bills from the last Congress. The House bill would have allowed the States to develop narrow programs for particular watersheds or categories of nonpoint pollution and satisfy the requirements of the legislation. The Senate bill included a broader scope including all water bodies within a State exhibiting nonpoint problems and all categories and subcategories contributing to those problems. This bill adopts the Senate approach.

As with any cooperative Federal-State program, this legislation includes procedures for review and approval of the State program. The Administrator shall decide whether to approve or disapprove a State program within a 6-month period after it is received. If the Administrator determines that it does not comply with the requirements of this act, he must notify the State of any modifications necessary to obtain approval. The State is then given 3 additional months to submit a revised program, to be approved or disapproved by the Administrator. If the Administrator determines that a State management program meets certain requirements he will approve the program.

If the Administrator fails either to approve or request modificiation of a submitted State program within 6 months of receipt, the program is deemed to be approved. Likewise, if the Administrator fails to approve or disapprove a program revised at his request within 3 months of receipt, such a revised program is deemed to be approved. This provision is intended to assure that implementation of programs to control nonpoint sources of pollution are not delayed because of inaction on the part of the Administrator.

In determining whether the proposed program meets the requirements and objectives of the Clean Water Act, the Administrator should take into account any public comments he had received, including those of downstream States that may be affected by the program. The Administrator's review should involve considerably more than a checklist of required program elements. Under this legislation, the Administrator must review submitted programs in light of the goals of the Clean Water Act and the purpose of this new section which is to achieve reduction of nonpoint source pollutant loadings by the implementation of best management practices by sources and to do so at the earliest practicable date. Before approving the program and awarding Federal grants to support its implementation, the Administrator must be persuaded that the program is capable of meeting the objectives.

If a State fails to submit a nonpoint source management program consistent with the new section 319, the Administrator is to carry out some requirements of the act on behalf of that State. The Administrator is thus required to identify waters within the noncomplying State exhibiting nonpoint pollution problems and designate categories or subcategories of significant contributors to that pollution. Any actions of the Administrator pursuant to this subsection shall be reported to Congress.

Subsection (h), (i), and (j) of the new section 319 authorized Federal grants to States to assist in implementing approved management programs and authorizes funds to be appropriated to the Environmental Protection Agency for the administration of this program. The Federal grants are not to exceed 60 percent of the costs of implementing the management program of any State. Non-Federal funds must be equal to at least 40 percent of the costs of each State program. This requirement will ensure adequate State financial involvement while providing necessary Federal financial assistance.

The Administrator is to determine the apportionment of funds among the States according to the needs of the States reflected in reports on the extent of nonpoint pollution problems and the quality and promptness of State programs to control nonpoint sources.

The legislation provides financial incentives to States to implement programs that address particularly difficult nonpoint source pollution problems. In such cases, the environmental benefits from controlling the pollution may be large, but the State may be reluctant to devote a disproportionate amount of its program funds to such problems. The Administrator is expected to use the authorized funds to achieve more effectively the objectives and requirements of this act. Additional funding to States with particularly difficult problems will result in more expeditious implementation schedules and more rapid reduction in nonpoint source pollution loadings.

Interstate nonpoint source pollution problems may be difficult to control because the program costs to control the pollution may accrue mostly in one State while the environmental benefits accrue mostly to another. In such cases, the Administrator may supply additional discretionary grants to the appropriate State, or may provide additional funding to a joint or cooperative interstate program.

In addition, these funds may be used to assess the relationship between nonpoint source pollution and groundwater quality. The conference report includes a provision of the House amendment which authorizes the Administrator to make grants to States with approved nonpoint programs to protect ground water resources from nonpoint sources of contamination.

This bill provides that any funds not obligated in the fiscal year for which they were appropriated shall be reallotted among the States in the following fiscal year.

The new section 319 provides that States may use Federal funds authorized by this bill for financial assistance to persons only insofar as the assistance is related to costs of implementing demonstration projects. These Federal funds are not to be used as a general subsidy or for general cost sharing to support implementation of best management practices by persons. However, a State is not precluded from using or directing other funds for cost sharing or other incentive programs if it so chooses.

The term "demonstration projects" includes projects designed to educate persons about the application of best management practices and to demonstrate their feasibility and utility as well as research projects to establish the feasibility or cost effectiveness of best management practices.

Initial program grants are required to be awarded to States whose programs are approved by the Administrator. Subsequent grants can only be made if the Administrator determines that the State is satisfactorily implementing its management program consistent with its commitments to schedules and milestones. This annual review and determination is important to assure that States are effectively implementing their programs and that Federal funds obligated under this section are being used to achieve the goals and requirements of the Clean Water Act.

The conference report authorizes 4 years of funding for the nonpoint program: $70 million for fiscal year 1987; $100 million for fiscal year 1988; $100 million for fiscal year 1989; and $130 million for fiscal year 1990. These funds are authorized to be appropriated for grants to the several States pursuant to the provisions of this section and for the payment of salaries and expenses of the Environmental Protection Agency necessary to administer the Agency's obligations under this new section.

Additional funding for the program is provided through set asides of funds that the States would otherwise receive under title II of the Clean Water Act. One percent or $100,000 of the construction grant funds allocated to each State shall be used to develop and implement this new nonpoint pollution program. In addition, nonpoint source control efforts may be financed by the Governor's discretionary set-aside which is 20 percent of the construction grants funds.

The bill requires each State to submit an annual report to the Administrator on its progress in meeting the schedule of milestones in its program and reductions in nonpoint source pollutant loading and improvements in water quality resulting from implementation of the management program.

The Administrator is required to transmit to the Office of Management and Budget and appropriate Federal agencies a list of the assistance programs and development projects which each State has identified for review pursuant to the authority of this bill. Beginning no later than 60 days thereafter each Federal agency is required to amend applicable regulations so that individual assistance applications and projects for the identified programs and development projects are submitted for State review. The appropriate agencies and departments of the Federal Government are required to accommodate, according to the requirements and definitions of Executive Order 12372, as in effect on September 17, 1983, concerns the State may express about consistency of assisted projects or activities with the State's Nonpoint Source Pollution Management Program.

The intent of this provision was explained partially in the comments I made a moment ago with respect to State responsibilities under this new section. Where the earlier subsection authorized the State to identify Federal programs and development projects for review, this subsection establishes the Federal responsibilities in response to such identifications by the States.

The purpose of the State review is to assure consistency of these Federal acitivities with the State's Nonpoint Source Management Program. If the State expresses a concern about consistency, the Federal agency is required to accommodate the Sate's concerns according to the requirements and definitions of Executive Order 12372 as in effect on September 17, 1983. The intent, therefore, is not to invent new procedures for Federal/State coordination, but rather to incorporate existing procedures by reference in the Clean Water Act. This is an important provision because, without adequate State review, Federal activities over which the State has no direct authority could undercut its program and its water quality goals, possibly jeopardizing the State's ability to meet its program commitments under this section.

It is important that we clarify the meaning of the term "accommodate" in this context. It is a term of art. It means that any project proposed to be developed by a Federal agency or for which any person is seeking assistance must be in conformance with State views, policies, regulations, and laws. If a State objects to any aspect of a proposed project, then that aspect must be modified to reflect the view communicated by the State. Accommodate means modify to take into account concerns expressed by a State or local government in the review process so as to satisfy and remove those concerns.

The Administrator is to establish an information clearinghouse for information pertaining to the costs and relative efficiencies of best managment practices and the relationship between water quality improvement and the implementation of various practices. The purpose of this provision is to promote information sharing among the States and to provide the basis for technical assistance to State programs.

The Administrator is required not later than January 1, 1990, to submit to Congress a report, based on information submitted by the States and such other information as appropriate, describing the management programs being implemented by the States and their experience in adhering to schedules and implementing best management practices. This report must also describe the amount and purpose of grants awarded under this program; identify the progress made in reducing pollutant loads and improving water quality; and indicate what further actions need to be taken to reduce nonpoint source pollution in the context of the program.

The purpose of this report is to give Congress the information it will need to determine whether the approach taken in this legislation is adequate. This report will document the progress made under this approach and will provide information that will help determine the necessity of future statutory revisions.

Mr. President, this new section 319 represents a first step in controlling pollution from nonpoint sources. We have been persuaded to take a path somewhat different from that taken for point sources. States are given flexibility to identify priorities. And based on commitments made in this legislative cycle, it is the expectation of the Congress that this program will result in a significant improvement in water quality and nationwide reductions in pollutant loadings from nonpoint sources. We will, of course, revisit this question in the next legislative cycle on the Clean Water Act. And we will not find this program adequate, if real improvement in water quality has not been achieved.

The bill requires the Administrator to enter into agreements with the Secretaries of Agriculture, Interior, and Army and the heads of other appropriate departments and agencies to provide for the maximum utilization of other Federal laws and programs for the purpose of achieving and maintaining water quality through appropriate implementation of plans approved under section 208 of this act. This amendment would establish the same requirement in terms of management programs developed pursuant to the new section 319. Mr. President, I am especially interested in assuring that EPA and USDA make full use of the authority in this provision. Each year we spend hundreds of millions of dollars through USDA soil and water conservation programs. In the past, these soil conservation efforts have not given sufficient priority to improvements in water quality. It is the expectation of the Congress that this provision will give rise to a memorandum of understanding between EPA and USDA which will significantly elevate the priority assigned to water quality protection in projects assisted by the USDA soil and water conservation programs.

As I said a moment ago, Mr. President, the Administrator is directed to reserve 1 percent of a State allocation under section 205(c) or $100,000, whichever is greater for purposes of carrying out the provisions of this nonpoint program in that State. The State may request the use of any amount of the amount reserved by the Administrator. If the State identifies an amount less than the full reserved amount but greater than $100,000, the State may use remaining reserved funds for other purposes under title II of the act. For example, the State would be able to use the funds for direct grants to municipalities for construction of treatment works. The Administrator may establish such administrative and procedural requirements as necessary to assure that funds available to States under this section and section 319 are properly coordinated. Further, the Administrator may require a single application for grants under this section and section 319.

Grants under section 205(j)(5) shall meet the Federal and non-Federal cost sharing requirement set forth under section 319. In management of funds under this subsection, however, the Administrator shall not withhold any portion of funds to support special programs.

These funds are intended to be a supplement to the funds authorized by section 319, not to replace them. It is essential that adequate section 319 funds be appropriated in order to assure the development of a strong foundation of nonpoint management plans. In the event section 319 funds are not appropriated, the funds reserved under this subsection will permit modest nonpoint programs to be developed. However, the funds made available by this provision alone are too meager to support the level of program development that is needed to effectively and adequately manage nonpoint source pollution.

Mr. President, finally, let me say that this new program to control nonpoint pollution is an addition to the Clean Water Act and not a substitute for the point source programs already in place under the act. As a nation we have made great progress in reducing the pollution of our surface waters. Much of the work that remains to be done is on the nonpoint side. And we begin that work here. But this is not an excuse to reduce the effort or relax the requirements on the point source side. Reductions in pollution already achieved through point source controls are to be maintained. Point sources not yet in compliance with the law are to be pursued. And on top of that effort we now have a nonpoint program that will bring us much closer to the goal of the Clean Water Act—to eliminate the discharge of pollutants into the Nation's waters.

STORM WATER RUNOFF

Runoff from municipal separate storm sewers and industrial sites contains significant volumes of both toxic and conventional pollutants. EPA's national urban runoff study found 63 toxic pollutants, including 13 toxic metals, in the discharge from municipal separate storm sewers that were studied. Of these, lead, copper, and zinc were the most pervasive; EPA found these pollutants in at least 91 percent of its samples. The same study also estimated that municipal separate storm sewers discharge 10 times the total suspended solids that the Nation's secondary sewage treatment plants discharge.

Toxic and conventional storm water contaminants may adversely affect public health, harm fish and other aquatic life, and prevent or retard water quality improvements even when the best available pollution controls are installed on other point sources.

The Federal Water Pollution Control Act of 1972 required all point sources, including storm water discharges, to apply for NPDES permits within 180 days of enactment. Despite this clear directive, EPA has failed to require most storm water point sources to apply for permits which would control the pollutants in their discharge.

The conference bill therefore includes provisions which address industrial, municipal, and other storm water point sources. I participated in the development of this provision because I believe that it is critical for the Environmental Protection Agency to begin addressing this serious enviornmental problem.

The bill establishes priorities, deadlines, and permit requirements for storm water point sources. It affords municipal and nonindustrial dischargers some relief from the 1972 permit application requirements.

With respect to municipal separate storm sewers, the bill establishes three permitting priorities: First, those systems serving a population of 250,000 or more; second, those which contribute pollutants to a stream segment which does not attain or maintain a water quality standard; and third, those which are a significant contributor of pollutants to any waters of the United States. If a municipal separate storm sewer or storm sewer system meets any of these criteria, EPA or the State, where the State administers the NPDES Permit Program, must require the source to apply for a permit within 3 years of enactment of these 1987 amendments. EPA or the State should use any available water quality or sampling data to determine whether the latter two criteria are met, and should require additional sampling as necessary to make these determinations.

If a source is required to obtain a permit, EPA or the State must also act to issue or deny the permit application within 1 year of the application deadline. If no permit application is submitted by the deadline, or if the submitted application is denied, EPA or the State must commence immediate enforcement action against the owner of the sewer system.

A permit for a municipal separate storm sewer may, where appropriate, be issued on a systemwide or jurisdictionwide basis. In writing any permit for a municipal separate storm sewer, EPA or the State should pay particular attention to the nature and uses of the drainage area and the location of any industrial facility, open dump, landfill, or hazardous waste treatment, storage, or disposal facility which may contribute pollutants to the discharge. Storm water permits shall include requirements to effectively prohibit nonstorm water discharges to municipal separate storm sewers. Non-stormwater discharges to municipal separate storm sewers are illegal under current law.

Permits issued under this section will provide for compliance as expeditiously as practicable, but in no event later than 3 years from the date the permit is issued and shall require controls to reduce the discharge of pollutants to the maximum extent practicable. Such controls include management practices, control techniques and systems, design and engineering methods, and such other provisions, as the Administrator determines appropriate for the control of pollutants in the storm water discharge.

Within 4 years of enactment or earlier if the water quality data warrants, EPA will commence a control program for storm sewer systems servicing communities with a population between 100,000 and 250,000. This schedule reflects the continuing need to control storm water runoff, but gives EPA flexibility, in the first 4 years after enactment, to order its permitting priorities around those sources which are believed to be the most significant. However, it should be clear that all storm sewer systems including those serving populations of 100,000 or less must be covered by the first round of permits where they contribute to water quality problems or contribute significantly to pollution of the waters of the United States.

After October 1, 1992, all remaining, unpermitted storm water point sources will return to current law status and will be required to obtain permits under section 402 of the Clean Water Act. Obviously, Congress will be taking another look at this whole question before that date and will be informed by the experience with storm water controls which have been established for larger communities under the provisions we adopt here.

EPA and the States should provide adequate opportunity for public participation in the development of any permit for a storm water point source.

The bill also requires EPA to submit to Congress a study of any storm water discharge or class of discharges which are not required to obtain a permit within the first 6 years of enactment. This study is to determine the nature and extent of pollutants in such discharges and procedures and methods to control such discharges. This study will enable Congress to determine whether permitting of the remaining storm water point sources should be expedited beyond the schedule provided in this bill.

GREAT LAKES

Mr. President, the Great Lakes are the heart of our continent. Over the last 200 years they have been the focal point for development of two great nations. They have been the source of food and drinking water. They are a mode of transportation. They are a reservoir of power and a vast resource for recreation and wildlife; 63 million Americans visit a park on the shores of the lakes each year.

All of these demands have taken their toll. The water quality of the Great Lakes has declined sharply. Unfortunately, the natural unity of the lakes has been overlaid by a fragmentation of State and local governments that have been unable to work together to effectively to protect what nature has provided.

In 1972 and again in 1978, the United States and Canada signed Great Lakes water quality agreements. These agreements provided that both nations would install adequate wastewater treatment facilities for the sewered population on each side of the border. Canada has met this requirement for 99 percent of its population. At last count, the United States was less than two-thirds of the way to this goal.

In 1982 the General Accounting Office published a report on U.S. compliance with other aspects of the Great Lakes Water Quality Agreement. The report concluded that the United States is failing to meet its commitments, especially with respect to toxic chemicals and nonpoint source pollution. This is due in part to the absence of a comprehensive U.S. strategy to implement the Great Lakes Water Quality Agreement. We hope to correct that failing with the new Great Lakes Water Quality Program which is authorized by this bill.

Mr. President, this legislation contains at section 404 a new program to restore and maintain the quality of the waters in the Great Lakes. This program owes much to the work of the Senator from Wisconsin [Mr. KASTEN], and was sponsored in committee by the Senator from New York [Mr. MOYNIHAN] and myself. Representative NOWAK, the new chairman of the Water Resources Subcommittee in the House, also played a major role in crafting this provision.

The objective of this new provision of the Clean Water Act is to achieve the goals embodied in the Great Lakes Water Quality Agreement of 1978. The legislation establishes the Great Lakes National Program Office within the Environmental Protection Agency and specifies the duties and responsibilities of the program office.

The program office is to develop and implement action plans to carry out the duties of the United States under the Great Lakes Water Quality Agreement of 1978; establish a systemwide surveillance network; coordinate the activities of the Environmental Protection Agency with respect to the Great Lakes; and to work with other Federal agencies to achieve the objectives of the 1978 agreement.

The program office will develop a 5-year plan for reducing the amount of nutrients that enter the Great Lakes and will incorporate in that plan management programs for nonpoint sources of pollution developed pursuant to the new section 319 of this the Clean Water Act.

The program office is to conduct a 5-year study of methods to remove toxic pollutants from the Great Lakes with emphasis on the removal of toxic pollutants from bottom sediments. Certain demonstration projects at specific sites are mentioned in the legislation. These projects are to be given high priority, but the Administrator is authorized to sponsor other projects and this section is not a guarantee that those projects named in the bill will be funded.

The annual budget submission of the Environmental Protection Agency to the Congress is to include a line item for the Great Lakes Program Office. At the end of each fiscal year the Administrator is to submit to the Congress a comprehensive report on the achievements of the program office during the preceding fiscal year.

The conference substitute establishes a Great Lakes Research Office in the National Oceanic and Atmospheric Administration. The research office is to identify issues with respect to Great Lakes water quality on which research is needed and is to compile an inventory of ongoing research on those questions. The research office is to develop a comprehensive data base for the Great Lakes system and may conduct research and monitoring activities itself.

For each fiscal year the program office and the research office are to prepare a joint research program. The head of each Federal department, agency, or instrumentality which is engaged in programs or activities which may have an impact on the water quality of the Great Lakes will submit an annual report to the Administrator of the Environmental Protection Agency with respect to those activities and their effect on compliance with the Great Lakes Water Quality Agreement of 1978.

The conference substitute provides an authorization to the Administrator of the Environmental Protection Agency of $11,000,000 for each of the fiscal years 1987 through 1991 to carry out the provisions of this section. Of the amounts appropriated, 40 percent is to be used by the program office to demonstrate the control and removal of toxic pollutants; 7 percent is to be used for nutrient monitoring; and 30 percent is to be transferred to the research office for its programs. As discussed on the floor of the House when this bill was considered there, these funds are in addition to the resources already committed to the Great Lakes program and are to carry out the new activities which are authorizing.

Mr. BAUCUS. Mr. President, section 506 of the Senate bill I would allow Indian tribes under certain circumstances to be treated as States. The Administrator is required to promulgate regulations which specify how Indian tribes shall be treated as States for purposes of this act. In promulgating these regulations, the Administrator is to consider the effects of differing water quality permit requirements on upstream and downstream dischargers, economic impacts, and present and historical uses and quality of the water subject to such standards.

Throughout Montana and much of the West, many Indian reservations are home to both Indians and non-Indians. Ranching, with its dependence on scarce water supplies, has led to an intertwining of both Indian and non-Indian water users. In one instance, a stream will originate on an Indian reservation and flow off the reservation on to either land within a State or land on an adjacent reservation.

Longstanding patterns of water user have evolved in the West. How will this provision affect these existing water rights?

Mr. BURDICK. It is not in any way to be construed as an impediment or a restriction on existing water rights or laws, either that of the various States or that of individual citizens.

Nothing in this act shall affect or interfere with any existing water quantities rights, their specific elements, uses, or methods of acquisition, whether within or without the borders of any Indian reservation or any state.

Private lands and water rights owners within boundaries of Indian reservations are not to be additionally affected by this act.

Those water quality standards set by Indian tribes and accepted by EPA will not be used off reservation borders.

Mr. MITCHELL. As the floor manager for the bill, I would like to reiterate that the interpretation of Mr. BURDICK is correct.

Mr. BAUCUS. I thank Mr. BURDICK and Mr. MITCHELL for their response.

Mr. ADAMS. I would like to ask the distinguished manager of the Clean Water Act to help me clarify an issue of concern to some of my constituents. Concerns have been raised that the Indian provisions of the Clean Water Act might alter the existing balance of water rights between Indians and non-Indians. My colleagues in the House, Representatives MORRISON and FOLEY, raised this issue with Representative UDALL, the distinguished Chairman of the House Interior and Insular Affairs Committee. Their concerns were addressed by a memorandum written to Representative UDALL that included the following conclusion:

> Enactment of H.R. 1, with the Indian provisions will not expand or diminish any water rights Indian tribes may have nor will it expand or diminish any liability the United States, States, or third parties may have for impairing those rights.

I ask unanimous consent to have the memorandum in its entirety printed in the RECORD, and ask the manager of the bill what his sense is of how this bill affects the question of Indian water rights.

Senator **Burdick**. I thank Senator **Adams** for giving me the opportunity to clarify this point. I appreciate the sensitivity of water rights questions throughout the Western United States. This bill does not alter the current state of the law on questions of the relative water rights between Indians and non-Indians. It maintains the status quo. Its intent is to provide clean water for the people of this Nation, and it is not in any way to be construed as an impediment or a restriction on existing water rights or laws.

There being no objection, the memorandum was ordered to be printed in the Record, as follows:

MEMORANDUM

To: Morris K. Udall, chairman, Committee on Interior and Insular Affairs.

From: Ducheneaux/Broken Rope.

Subject: Indian provisions of the clean water bill.

You have directed us to address the objections raised by constituents of Mr. Foley and Mr. Morrison to the Indian provisions, of H.R. 1, legislation to amend the Clean Water Act. As you know, you strongly supported the inclusion of those provisions in the bill passed and vetoed by the President in the 99th Congress.

It appears that the objections being raised to the Indian provisions assert that these provisions either—

(1) expand the substance of existing Indian water rights;

(2) expand the mechanism available to Indian tribes to enforce those rights both within and without their reservation boundaries; or

(3) both.

CLEAN WATER ACT

I. Substance of Indian water rights

There is nothing in the existing law nor in the proposed amendments in H.R. 1 which in anyway expands the substantive rights of an Indian tribe to a quantity of quality of water. In fact, section 101 (g) of the existing law which is specifically made applicable to Indian tribes by the proposed Indian provisions of H.R. 1, specifically preserves the allocation or qualification of water rights which are otherwise legal under state law.

In like manner, there is nothing in the existing law or in the proposed amendments which impairs or is intended to impair any way existing substantive water rights of any Indian tribe.

Many Indian tribes have certain water rights deriving from treaties or other Federal law wholly apart from the Clean Water Act. These rights, often undetermined, include rights to certain quantities of water and rights to a certain quality of water, it is beyond question that Indian water rights include a right to some quantity of water.

There seems to be some doubt that this right extends to a right to a certain quality of water and the case law on this is somewhat sparse.

However, in the 1980 decision of the Federal district court in *U.S.* v. *Washington*, 506 F. Supp. 187, this very issue was addressed. The tribes asserted that their treaty fishing right included the right to environmental protection.

". . . It is well established that the scope of an impliedly-reserved right may not be broader than the minimal need which gives rise to the implied right . . . Thus, the scope of the State's environmental duty must be ascertained by examining the treaty secured fishing right rather than by selecting a desirable standard that has been imposed by Congress in a different context. . . . The treaties reserve to the tribes a sufficient quantity of fish to satisfy their moderate living needs. . . . That is the minimal need which gives rise to an implied right to environmental protection of the fish habitat. Therefore, the correlative duty imposed upon the State (as well as the United States and third parties) is to refrain from degrading the fish habitat to an extent that would deprive the tribes of their moderate living needs."

While the Circuit Court subsequently vacated the lower court's summary judgment on the environmental issue and remanded the case, it did so solely on the grounds of the proof necessary to show that the State had violated the tribes' fishing right through environmental degradation.

See also *U.S.* v. *Anderson* (1979), where the federal court held that the reserved water right included a minimum stream flow to preserve native trout. It also addressed a water quality issue, holding that this right required that the water temperature be maintained at 68 degrees F. or less for fishing purposes.

As noted, these water rights, whether asserted as to quantity or quality or both, exist separate and apart from the Clean Water Act. Either the tribes or the United States or both can have recourse to the Federal courts to enforce those rights.

Enactment of H.R. 1, with the Indian provisions will not expand or diminish any water rights Indian tribes may have nor will it expand or diminish any liability the United States, states, or third parties may have for impairing those rights.

II. Enforcement conflict resolution mechanisms.

There seems to be a concern that enactment of H.R. 1 with the Indian provisions will somehow expand or strengthen the power of an Indian tribe to act to protect its water rights, whether as to quantity or quality. That is not accurate.

A. Indian tribes are self-governing, exercising limited powers of inherent sovereignty within their reservations.

B. In the exercise of that power, Indian tribes have the right to regulate lands and other natural resources within the reservation, including non-Indian owned fee lands or resources.

C. States have no power to assert its laws within an Indian reservation to regulate lands or other resources unless Congress has specifically so provided. In fact, in *Washington* v. *EPA*, the Circuit Court upheld a decision of EPA denying the State environmental regulatory jurisdiction under the Resource Conservation and Recovery Act, over Indian lands. The court said, "States are generally precluded from exercising juriadiction over Indian Country unless Congress has clearly expressed an intention to permit it.".

D. Conversely, Indian tribes, except in extremely limited cases, have no power to project their regulatory authority beyond the boundaries of the reservations.

E. The Clean Water Act establishes Federal standards for water quality. States are empowered to assume primacy for water quality regulation within the state by developing and having approved by EPA a Plan establishing *State* water quality standards which are which ar no less stringent than those adopted by EPA. States may then issue State permits permitting certain water pollution activities which meet that State's water quality standards.

F. Where two or more states, sharing a common water body, have plans approved by EPA with differing standards of water quality, the Act does provide mechanisms for resolving inter-state conflicts. However, there is nothing in the existing Act or in the proposed amendments which gives EPA the power to force one state to changes its approved water quality standards or those valid activities done in accordance with its plan in order to accommodate the water quality needs of another state or states. The aggrieved state or states might have recourse against the offending state through litigation under other applicable law.

G. Recognizing the existing right of Indian tribes to regulate their environment within their reservation boundaries, the Indian provisions in H.R. 1 would permit those Indian tribes who have met certain exacting standards, to assume primacy for water quality regulation within their reservations. The provisions provide that tribes for limited purposes of the Act, would be treated as a State.

H. The Indian provisions of H.R. 1 require the Administrator of EPA to promulgate regulations to specify how Indian tribes will be treated as States for purposes of the Act. In doing so, he is required to consult with affected States charging common water bodies with tribes and to provide a mechanism for the resolution of unreasonable consequences that may arise as a result of differing water quality standards that may be set by States and tribes. However, just as in inter-state conflicts, nothing in that requirement, in the existing Clean Water Act, or in any other provision of H.R. 1 gives the EPA administrator or the tribes the power to force States to alter their approved water quality standards or their operations under an approved Plan in order to accommodate higher tribal water quality standards. Nor is there anything in the existing law or proposed amendments which would permit Indian tribes to project their internal regulations beyond the boundaries of their reservation.

We can find nothing in the Clean Water Act, as proposed to be amended by H.R. 1 which would in any way expand substantive Indian water rights or which would expand or enhance the power of Indian tribes to affect off-reservation activity which might degrade or despoil on-reservation water quality

January 7, 1987

Mr. LAUTENBERG. Mr. President, I rise in strong support of H.R. 1, the Clean Water Act Amendments of 1987. This same legislation was unanimously adopted by both the House and Senate at the close of the last Congress. We knew then and we know now that this bill is a significant step forward in protecting this Nation's waterways, and deserves our support.

With its construction grants components, its Nonpoint Source Pollution Program, its tightening of toxic discharge controls, and storm water permitting program, this legislation will do much to address major environmental challenges.

Unfortunately, President Reagan pocket-vetoed this legislation. The administration asserted that the bill's authorization for construction grants was excessive. But this claim does not take account of the high costs of sewage treatment construction. It has been estimated that $109 billion is needed to finance such construction throughout the Nation, including $4.5 billion in my State of New Jersey.

Compared to these large needs, the bill before us is no budget buster. It is a rational downpayment on a major national problem. This legislation spreads $18 billion over 9 years for its Construction Grants Program. This sum is gradually allocated. And almost half of it—$8.4 billion—is targeted for State revolving loan funds. Such State loan funds will help create a self-sustaining source of money for States to finance local construction.

A strong construction grants program is essential for economic development across this Nation. If we do not have the sewage treatment facilities to handle the wastes resulting from economic development, we cannot move aggressively forward with such development.

Mr. President, the costs of not enacting this legislation—the harm to our environment, the burdens on our States and localities, and the damage to economic development—far exceed those of this measure.

Mr. President, some are arguing today that the administration substitute bill (S. 76) should be adopted instead of H.R. 1. But S. 76 is no substitute for a strong clean water bill.

The administration's bill would steal from this Nation the opportunity to make real progress in cleaning up our waterways. The substitute reduces by $6 billion the funding for communities' sewage treatment, including over a $200 million reduction in funds for my State. It also abolishes the mandate for establishing revolving loans, the component designed to allow our States independently to fund projects. And it limits States discretion in using funds for revolving loans.

The substitute eliminates the authorization and strength of the Nonpoint Pollution Control Program. S. 76 specifically removes the $400 million authorization of H.R. 1, and makes many of its important requirements, such as State nonpoint pollution assessments, simply optional.

Mr. President, the administration bill is a classic example of being "Penny wise and pound foolish." It is a haphazard and simplistic approach to a complex problem. It ignores the hard work and careful consideration this Congress has given to H.R. 1. and I urge my colleagues to oppose it.

The time for debate is over. We have the bill to do the job. Let's pass H.R. 1.

and get on with the task of protecting and cleaning up this Nation's waterways.

Mr. President, it is clear that this is a nation committed to the principles embodied in this measure. In the early 1970's, the people of this country made a fundamental decision that they wanted a concerted effort to clean up the Nation's waters—waters that are used for fishing, swimming, recreation, and drinking water.

This decision was made because of our growing awareness of and concern about water pollution. News accounts told us about Lake Erie being dead, the polluted Cuyahoga River in Ohio so filled with oil and debris that it caught fires, millions of gallons of raw wastewaters being dumped into the country's major rivers, such as the Hudson River, and many fish kills and oil spills.

The Congress responded by passing the Federal Water Pollution Control Act Amendments of 1972. This act established a goal—to restore and maintain the integrity of the Nation's waters—which captured the essence of the Nation's desire for clean water.

During the 13 years this act has been implemented, impressive strides have been made in cleaning up our Nation's waters. But much remains to be done. The Clean Water Act Amendments of 1987 include a number of provisions which address problems which are preventing us from achieving the goal of the Clean Water Act.

Also of great importance is future funding for the Construction Grants Program. Since passage of the Clean Water Act in 1972, Federal, State, and local sources have invested more than $56 billion in municipal wastewater treatment facilities resulting in the construction or improvement of approximately 3,500 treatment facilities. Properly running sewage treatment facilities are an essential component for cleaning up the Nation's waters. For example, sewage treatment plants in 1983 were removing 65 percent more of the two principle conventional pollutants—suspended solids and biological oxygen demand—than they were a decade earlier.

Yet it is clear that the existing Construction Grants Program is inadequate to meet remaining national needs. According to EPA, eligible construction needs through the year 2000 total $53 billion. Ineligible needs, those needs not eligible for Federal funding under the Clean Water Act, are more than $50 billion. According to estimates, New Jersey alone has $4.5 billion in eligible funding needs. New Jersey only receives approximately $100 million per year in existing Federal construction grant funding. Therefore it is imperative that we implement a new method of financing sewage facilities. A creative framework, which had its origins in New Jersey, is the concept of revolving loans.

The Clean Water Act Amendments of 1987 adopted this concept and will move us closer to the goal of providing an adequate source of stable funding for sewage treatment facilities. H.R. 1 would authorize $18 billion over 9 years for Federal sewer construction grants and loans. Under the bill, the Federal Government will gradually reduce categorical grants for sewage treatment facilities as it phases in a program of grants for States to capitalize State revolving loan funds.

These funds will provide the capital for municipal wastewater treatment facilities in the future. States can make low or no interest loans available to communities for construction of treatment facilities. As loans are repaid to the State revolving loan funds, the funds will be able to loan money to additional communities.

In addition, Mr. President, this bill will help spur the construction of needed sewerage facilities. In the case of municipalities which proceed to begin construction with their own funds, refinancing is permitted from a State revolving loan fund. Presently, most municipalities wait until it is their turn to receive Federal construction grant funding before they begin constructing needed facilities. This refinancing feature of the Revolving Loan Program would eliminate the disincentive for municipalities to move ahead quickly with construction that now exists with the grants program.

Municipalities are facing a 1988 deadline for installing sewage treatment facilities which provide secondary treatment. EPA has threatened to restrict development in municipalities which are not in compliance with the 1988 deadline. New Jersey imposed sewer bans in many municipalities and has warned others that they face such bans if the discharge from their sewage plants will not comply with requirements of the Clean Water Act. The reimbursement provisions in the conference report to S. 1128 should stimulate cities to meet the 1988 deadline.

Under the bill, States will have to enact legislation to give a legal entity of the State the powers prescribed in the act. During consideration of this legislation during the last Congress, the Environmental Pollution Subcommittee agreed that this legal entity can be an existing or new State entity or agency. When the States enact legislation to implement State revolving loan funds, they will have the flexibility to determine how the fund will operate subject to the requirements of this provision of the Clean Water Act.

For example, States would be able to establish loan terms based on the financial needs of municipalities with easier loan terms available to poorer municipalities. States can decide to initiate their loan funds prior to fiscal year 1989, the year they are required to do so. When States enact revolving loan legislation, they can determine whether to begin using their construction grant funds to capitalize their revolving loan funds prior to fiscal year 1989 and if so, under what terms.

Mr. President, I believe that the revolving loan concept contained in the bill will provide a stable source of funding for the construction of sewerage facilities while providing States with the flexibility to minimize the financial burden of these facilities on local municipalities.

The Clean Water Act amendments only slightly revised the allocation formula for construction grants. I would have preferred the Senate approach during the last Congress, which would have provided New Jersey with $15 million more in grant funds. But New Jersey stands to receive approximately the same amount it has been receiving—up to about $100 million this year—in such funds under H.R. 1. And the State will receive about $650 million over the life of the bill.

H.R. 1 also includes the Raw Sewage Abatement Act of 1985. This legislation which I sponsored, limits the discharge of raw sewage by New York City. At the time I introduced this legislation, New York City was the only major municipality in the country which still discharged raw sewage and wastewater into surrounding waters, without preliminary treatment of its wastes. It did so because of the absence of sewage treatment facilities in two major drainage areas in New York City. Two court ordered deadlines to cease this practice were disregarded by the city.

The provision that I sponsored imposed a cap on raw sewage discharges from the drainage areas in New York City which were without treatment plants, if the city failed to meet the deadlines for achieving advanced preliminary treatment contained in its current consent decree. If these deadlines were met, the cap would be unnecessary because all raw sewage discharges will cease. If the city failed to meet these deadlines, a cap was to be imposed in the drainage area in violation of the decree. It was to stay in effect until the city brought the affected plant online and it operated successfully for 6 months.

The imposition of a cap on raw sewage discharges upon a violation of the consent decree, in effect, said to the city of New York, "You cannot continue to grow without restraint if you cannot treat your wastes".

Upon violation of the cap, the city would be subject to the enforcement provisions in section 309 of the Clean Water Act. These penalties would be in addition to those provided for violation of the consent decree. They include tough civil and criminal penalties, and would enable EPA to seek a temporary or permanent injunction against the city, to bring civil actions against the city and to initiate criminal prosecution in cases of negligence or falsification of records.

With the changes adopted in the conference report, to section 309 of the Clean Water Act, a violation of the cap imposed by this amendment could result in substantial penalties of up to $50,000 a day. A violation stemming from a criminal conviction could lead to imprisonment.

Finally, Mr. President, the legislation states that it is the sense of the Congress that EPA should not extend the deadlines in the city's existing consent decree any further.

I am pleased to note that following my amendment, New York City finally began to comply with court-ordered schedules for construction of its North River and Red Hook sewage facilities. North River is currently on schedule to attain secondary treatment by 1991. Red Hook is on schedule to attain primary treatment by 1989. While Red Hook is on schedule, the fact that it is not operational means that discharge of raw sewage into the East River still continues. This legislation will ensure that New York's facilities stay on present compliance schedules, with no more extensions, and move us toward eliminating the dumping of raw sewage in the waterways of New York and New Jersey.

New Jersey has had its share of water quality problems. But treatment plants in northern New Jersey are all achieving primary treatment, and most of the major plants serving northern New Jersey are achieving secondary treatment, or are under construction to do so.

The New Jersey Department of Environmental Protection has imposed numerous sewer hookup bans in a number of New Jersey municipalities to improve compliance with the Clean Water Act. Several communities may finance the upgrading of their sewage treatment plants to secondary treatment without any Federal or State aid. In some cases, the Department of Environmental Protection in New Jersey required private sector parties to contribute to local efforts to upgrade sewage treatment facilities as the price of securing a sewer hookup permit and proceeding with planned development.

Mr. President, New Jersey and New York do not need to grow at each others' expense. Regional growth is good for both States. By the same token, Mr. President, this growth should be accompanied by appropriate environmental protection. It must not come at the expense of the environment. It must not come at the expense of New Jersey's tourist and commercial and recreational fishing industries.

These provisions in H.R. 1 will provide strong incentives for New York City to keep complying with its consent decree and bring its sewage treatment plants online as quickly as possible.

H.R. 1 contains a number of other provisions which will strengthen this Nation's effort to clean up its water. These include:

Establishing a new program for cleaning up toxic "hot spots"—waters that will not meet water quality goals even after industrial dischargers have installed the best available cleanup technologies required under existing law;

Requiring States to develop plans for combating nonpoint source pollution, such as polluted runoff from city streets and farmland. Conferees agreed on a $400 million authorization to help States implement the plans;

Restricting the use of fundamentally different factor waivers from national discharge standards;

Prohibiting, except in certain narrowly defined circumstances, so-called "backsliding," or weakening of cleanup standards when industrial and municipal discharge permits are renewed or reissued;

Establishing a national estuary program to solve pollution problems in interstate estuaries such as Delaware Bay and the Hudson-Raritan Estuary;

Requiring EPA to establish toxic contaminant criteria for sewage sludge use and disposal and to establish a public health and environmental protection basis for these criteria;

Authorizing a total of $85 million for lake water quality activities, including demonstration projects at New Jersey's Deal Lake, Belcher Creek, and Greenwood Lake, as well as $15 million for acid mitigation projects;

Retaining the existing law's requirement that discharge permits be renewed every 5 years. The House bill would have extended the permit term to 10 years for certain discharges.

Mr. President, I believe that enactment of the Clean Water Act Amendments of 1987 represents a positive step in the Nation's effort to clean up its water resources, and I urge that we pass this legislation today.

Mr. MITCHELL. Mr. President, I yield to the Senator from New York [Mr. MOYNIHAN].

The PRESIDING OFFICER (Mr. WIRTH). The Senator from New York.

Mr. MOYNIHAN. Mr. President, I thank the Senator.

I am happy to join my colleagues and associates in support of H.R. 1, and S. 1, the identical measure which we have introduced on this side.

I want to express particularly the pleasure which we all share that this measure has received strong bipartisan support in the 100th Congress. I wish to pay tribute to the distinguished senior Senator from the State of Vermont, our neighbor, the former chairman of the Committee on Environment and Public Works, Mr. STAFFORD, under whose leadership this legislation was first enacted by the Senate and ultimately by Congress.

The Water Quality Act of 1987 is a successor to the original legislation passed in 1972 which had as its laudable goal the cleanup of the waters of the United States to the point where they would be swimmable and fishable. In the great complexity of legislative language, I think it worth noting that when Congress established a standard, we confined it to terms that were tangible, immediate, and definable—"swimmable and fishable."

We did not want this to be an indefinite program, and it is not. The bill we have before us was the product of a 2-year conference with the House of Representatives. I was a member of this conference and can attest that it was a 2-year effort. Our bill provides that the Constitution Grants Program—which has funded the upgrading of our water treatment plants and thus has enabled remarkable progress in improving water quality—end in 4 years' time. Thereafter, a revolving loan fund will be established that municipalities can use for financing. It will be a self-sustaining arrangement that will not require Federal appropriations. We are talking about an appropriate end to a program begun in 1972, with the goal in sight.

What is this goal? It is the time when our waters are swimmable and fishable.

The year 1972 is not all that long ago, in terms of time. But I wonder if some of our memories of that previous period are not already fading—the period before the enactment of the Clean Water Act.

Senator STAFFORD, the distinguished former chairman of the Environment and Public Works Committee, told a story at the press conference that we held on January 6, the first day of the Congress where a bipartisan group of Senators from the committee assembled to introduce the measure. Senator STAFFORD is a naval person, a yachtsman who has been known to make his way through the Champlain sections of the Erie Canal at Lake Champlain which the sovereign States of New York and Vermont share—even on the coast of Maine. On that occasion last week the Senator noted that there was a time that if you fell into the Potomac River, there really was not much point in swimming back to the surface—there was no cure for that kind of exposure.

In turn, I told of a time when I went to a NATO meeting in Brussels which convened the Committee on Challenges of Modern Society, a committee which still exists. Here was an instance where the United States had brought the environmental issue to Europe, which had equal if not worse problems. In the tradition of American hyperbole—or so it might have seemed, but it happened to be fact—I said to the NATO Conference that the United States could make many claims which no doubt other members present could equal, but I did not think anyone could equal our claim to having a river which had just caught on fire. That river was the Cuyahoga River which flows through Cleveland, which had become so polluted that one night it actually caught fire, requiring the local fire department to extinguish a burning river.

That is a past not too far behind us but one already receding from our memory because we have a program here that worked. Did it require resources? Of course, it required resources. Was it worth it? Of course, it was worth it. One of the sensible transitions we are trying to encourage in the Environment and Public Works Committee is that of cleaning up waste from the past and preventing waste in the future. We have followed that general strategy in the Superfund legislation. With respect to toxic wastes left in the Earth, we are cleaning them up and isolating them so that their harmful effects are neutralized. Simultaneously we want to see an end to the production of toxic waste, which is a product of industrial life and one that can be managed and recycled. We can clean up the problems of the past and not create more problems for the future. We have understood that principle, and that is nowhere better demonstrated than with respect to the Clean Water Act.

We started out not 14 years ago and since then we have quite literally transformed the quality of this country's rivers and lakes. You can swim in the Potomac and you can fish in the Potomac. In any case you do not have to live in mortal fear of falling into the Potomac—and the Cuyahoga River has not caught fire since this legislation was enacted.

Now, what are we asking here? We are asking to bring to an orderly termination a program that began with a fixed goal, a goal which we have not yet attained but which we are certainly approaching. It is a goal which the American people certainly understand and support. We had a difficult lengthy conference with the House because of issues that are specific to many programs at this time. But in the end and in good time—96 hours before the end of the 99th Congress if I recall correctly, we reached agreement so that in both bodies the bill passed almost unanimously.

Mr. President, a few weeks later I was, as most of us were, back in New York or our respective States involved in the campaign, and I inquired of my Washington office, where was the bill and when was the President going to sign it? It seemed a very proper opportunity for the President to sign this bill and take his share of the credit for it. After all, it cannot become law without his signature, and surely he would want to do that prior to the election.

Then I learned something that was cause for apprehension. I learned that the Speaker had signed the bill and the bill had made its way to the Senate, but it had not yet received the signature of the President pro tempore and therefore had not made its way to the White House. Only when the bill leaves the Congress is it that the 10-day period commences during which a bill must be vetoed if Congress is in session or else it becomes law. Alternately, Congress having adjourned, if no action is taken, it is in effect vetoed by the absence of any action by the President, which we have come to call the pocket veto.

I leaned to my disappointment that something had happened in the Senate, that the bill had not reached the White House until such time that the 10-day period would not expire until after the election.

I took the liberty, Mr. President, of calling a press conference in New York State to discuss this unexplained delay. New York has a very great interest in this legislation; a formidable portion of the raw sewage that is discharged into navigable waters in the United States enters the Port of New York from the Hudson and East Rivers. It is our responsibility to halt this discharge, and we have not yet fulfilled it, but we will in this last phase of the program. Now, I asked at the time, could not the President assure us that he was going to support this measure and sign it before the election? And I offered the gratuitous advice that candidates of his party could take credit for the Clean Water Act after the President signed it, or he could ask them to the White House for a signing ceremony, give them pens, pictures to take home, spots on television, all that paraphernalia of a campaign.

Well, silence came. And then I held yet another press conference to say, "Look, the silence is ominous. It can only suggest that the President's advisers are saying, Don't sign this bill. Because if he were going to sign it, the clock running as it was, we would have heard quickly back, Don't worry; the bill is going to be signed Monday, Saturday, or whatever. And then in fact I did send a message, whom it reached, I do not know—saying, "Mr. President, sign the bill. Do not let your advisers do you a disservice. This is a bill that passed unanimously in both Houses of Congress. You can sign it now in a spirit of cooperation or it will come back to you in January in another spirit."

The election came and went and then, of course, the majority changed in this body so that we could be perhaps just a little more certain of cooperating with the majority in the other body. In any event, this has been a bipartisan effort, led in the previous Congress by the Republican majority.

I issued my last plaintive plea to the White House, to say to the President, "Why don't you just sign that bill, and avoid starting out the next Congress with this problem?"

Again, advisers prevailed, and here we are today. But we are here in a bipartisan spirit without any measure of vindictiveness. I am a little disappointed that we have to go through this once again, but actually not that much time has expired.

It seems to me, even so, that we should get this matter completed expeditiously. Now we have before us H.R. 1. The House, making a special effort, stayed in session long enough to pass the bill in its first week. That is not the normal pattern of the House, as the distinguished Presiding Officer [Mr. WIRTH] knows. They tend to swear in their new Members and then recess for a period in January. They swore in their new Members and then stayed to pass H.R. 1; a bill with pride of place in that body. I think only the Speaker of the House could decide which bill should hold the honor of being H.R. 1.

I know that in the Senate, only the majority leader has the personal privilege of assigning the first 10 numbers; and our distinguished majority leader, upon hearing the suggestion, said that the Clean Water Act would be S. 1; the bill with the pride of place in the Senate.

So we have H.R. 1 on our desks. There it is—H.R. 1—identical to the bill adopted in the closing days of the last Congress, and the first bill to appear before us in this Congress. S. 1 is no doubt being printed of this time. It is an identical bill.

Both bodies adopted the Clean Water Act by nearly unanimous vote in the last Congress. If memory serves, in the House it was adopted as near to unanimous as makes no matter—406 to 8. The Senate passed it by 96 to 0, unanimously. I cannot but think it will have the same outcome this year.

With that expectation, I would like to move forward. We are ready. We are in session. We are giving good and fair notice that this is our purpose.

The Committee on Environment and Public Works met Tuesday morning of last week, before the 100th Congress convened to declare that this would be our first order of business. Here we are. So can we not conduct some business? The always loyal and indefatigable Senator from Vermont is on the floor. The distinguished senior Senator from Maine, who is the chairman of the subcommittee with jurisdiction over this matter is present. We are ready.

I understand that the minority leader would like to offer, as a substitute for H.R. 1, the proposal prepared by the Office of Management and Budget, and that is fine. If he wants a vote on that, that is fine. But we want a vote on H.R. 1; we want to get it to the President, and to get the matter over with. There is nothing to be gained from beginning this 100th Congress in a spirit of confrontation. The virtually unanimous approval of the Clean Water Act is a decision Congress has made, and one which the President will surely abide by once he becomes aware of the true measure of support this bill enjoys. I cannot imagine the President was thinking about this in those last days of the campaign. He was campaigning very hard. He has had other matters on his mind since. Here is a chance for the President to get in step with the legislative agenda of the 100th Congress and get a piece of work done; a good, clean piece of work, in the name of clean water. It is doable and, so far as I am concerned, can be done this afternoon. If not this afternoon, why not tomorrow? Then we can get on with the business of this Congress by concluding the unfinished business of the last Congress.

Mr. President, I thank the Chair for its courtesy in this matter, and I thank my friends from Vermont and from Maine.

I see that the distinguished senior Senator from Maryland is on the floor, and wishes to speak to this matter, as anyone with jurisdiction over the Chesapeake Bay would. As someone with jurisdiction over the Hudson River, I share his concern for the quality of our Nation's rivers and estuaries.

I would like to take a moment to express my pleasure in addressing Mr. SARBANES as the senior Senator from Maryland. It is the first occasion I have had to do that. I congratulate him on this honor, and can testify to the excellence which he brings to his new position. I thank him for his patience.

Mr. President, I have a formal statement on the matter which details the specifics with reference to my State in the Clean Water Act. I ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR DANIEL PATRICK MOYNIHAN

Mr. President, I rise today to urge quick passage of the Clean Water Act Amendments of 1987, H.R. 1, a priority of the 100th Congress. This legislation, approved unanimously at the close of the 99th Congress, is important to our nation, and to my State of New York. Passage of this legislation has become a bipartisan goal of the new Congress. We cannot afford to wait any longer to send the funds to the states for their water pollution programs. Therefore we are requesting that our colleagues not offer amendments to the bill which is before us, which is identical to the Conference Report passed by the 99th Congress.

When the President allowed the legislation to expire by reason of the so-called pocket veto on November 6, 1986, he placed in jeopardy 14 years of good, hard work. Congress is acting today to finish the task it began with passage of the original Clean Water Act of 1972—to clean up the nation's waters. The sum of 18 billion dollars authorized by the bill over eight years will enable the states to ameliorate the worst cases of water pollution which threaten our drinking water particularly and our water resources generally. After four years, the construction grants program which funds sewers and treatment plant on a 55% federal, 45% state basis, will be converted into a revolving loan program, which will be self-sustaining. Therefore, this is not another huge federal subsidy with no end in sight; rather, it is a targeted effort which ultimately will be self-perpetuating. As such it leverages federal funds, providing seed money for the states' own revolving loan pools.

CLEAN WATER IN NEW YORK

If this legislation passes, which we have every confidence it will, New York will receive $268 million annually in federal grants through 1990, or nearly $1.1 billion of the $18 billion authorized across the nation. This is the highest annual amount received by any state. (California is the next highest recipient at $173 million annually; New Jersey receives $99 million, and Connecticut $30 million).

Without this legislation, a number of New York treatment facilities will be unable to meet the July 1, 1988 deadline mandated under the Act for secondary treatment. The Office of the Attorney General of New York has already begun to notify municipalities which may not be able to meet their compliance schedules.

I need not remind New Yorkers of our dependence on clean water. The striped bass in the Hudson are too contaminated to be eaten safely. Long Island's aquifer which is the drinking water for three million people is being depleted and polluted. And under New York City's streets old leaky water mains reluctantly disburse water to city residents.

Passage of the Clean Water Act Amendments of 1987 must be the cornerstone of our federal water policy. The 99th Congress passed the Safe Drinking Water Act, which strengthened EPA's capacity to protect and to improve our country's drinking water supplies. The Safe Drinking Water Act contains the Sole Source Aquifer Protection Act, which I first introduced in 1982, designed to protect irreplaceable aquifers and such as the one on Long Island. Together with national groundwater legislation, which I am also introducing in the 100th Congress, these statutes will provide a comprehensive approach to maintaining and improving our water. We cannot afford to wait until these waters are polluted. It is much more expensive to clean up water—particular groundwater—after contamination than to prevent it in the first place.

Mr. President, allow me to review the goals of the Clean Water Act

GOALS OF 1972 CLEAN WATER ACT

The Federal Water Pollution Control Act was enacted in 1972 with an exuberantly optimistic set of goals. By 1983 the Act envisioned clean rivers throughout the Nation; by 1985 it sought to eliminate altogether the discharge of pollutants into our waters.

Two major strategies were embodied in the act to achieve these goals. First, a large Federal grant program was established to help local areas construct sewage treatment plants. According to the Congressional Budget Office, $52 billion (in 1984 dollars) total has been spent by the federal government on this construction grant program since 1972.

Second, the act required that all municipal and industrial wastewater be treated before being discharged into waterways, to remove pollutants ranging from organic materials, bacteria, and viruses to toxic chemicals and heavy metals.

Under the act's National Pollutant Discharge Elimination System the Environmental Protection Agency established limits on the maximum allowable discharge of specific pollutants from treatment plants and industrial facilities. These limits were based on available detection and control technologies, and took into account the compliance costs to the regulated community. They are written into permits issued to all such discharging facilities.

Significant progress has been made towards cleaning up the nation's waters. According to EPA's 1984 National Water Quality Inventory, many of the most severe pollution problems of the 1960s and 1970s have been abated. Moreover, despite substantial growth in the nation's population, industry, and development, overall water quality remained roughly stable between 1972 and 1982—a major accomplishment. A 1984 study by the Association of State and Interstate Water Pollution Control Administrators found that of 350,000 miles of streams and rivers monitored during this period, water quality improved in 13%, stayed the same in 84%, and declined in only 3%. We have been doing something—several things—right.

The Clean Water Act Amendments of 1987 strengthen and add to our current statutes. I will review briefly the most important provisions in these amendments.

CONSTRUCTION GRANTS FOR SEWAGE TREATMENT PLANTS

H.R. 1 authorizes 18 billion dollars in federal support over eight years for the construction grants program, on a 55% federal, 45% state basis. This program enables construction and upgrading of sewage treatment plants. The goal is to have all sewage treatment plants achieve secondary treatment by 1988 (a process which removes 85% of solid and organic matter). In 1989, the revolving fund plan begins, the goal of which is to convert the states' construction grants program into a self-financing program. Such an approach has worked extremely well in

Texas and other states. The governor will have the discretion to apportion grant funds and loan funds in order to meet the particular needs of his or her state. With wise planning, the states should make this transition without any disruption in their current schedules of priority work.

I am pleased that the current allocation formula for construction grants has been left virtually in place. This formula, which is based on the current EPA needs survey, correctly reflects the immediate needs in our urban areas in the Great Lakes and Chesapeake Bay regions. Our older cities place the greatest population pressures on the water systems, which also tend to be the oldest systems. New York receives $268 million annually under this allocation.

NONPOINT SOURCE POLLUTION

This bill provides $400 million to initiate the first national program to control nonpoint source pollution, primarily runoff from agriculture and urban areas. Scientists at EPA have determined that nonpoint source pollution (pollution not from a single pipe or outfall) is a significant contributor to degradation of water quality. This includes runoff contaminated by fertilizers and other chemicals, as well as runoff from city streets which often contains high levels of salts and oils.

As part of this effort, conferees worked diligently with cities and counties as well as with environmental groups to devise a stormwater permit system that would improve water quality without being too costly or too cumbersome for EPA to administer. A recent court decision had ordered EPA to issue permits for virtually all storm sewers, which would have required EPA to issue 50,000 more permits on top of the 65,000 point source permits EPA already issues. This would have diverted EPA personnel efforts from control of toxic contaminants in water to a paper shuffling exercise that would not be result in environmental improvements in most cases. The Conference agreed on a provision which would require permits from industrial discharges to storm sewers, and from cities over 250,000 in population where those discharges are significant contributors to pollution.

CLEAN LAKES PROGRAM

H.R. 1 provides 85 million dollars for a Clean Lakes program which states can use to clean up silted lakes, and to lime acidified lakes.

ESTUARIES PROGRAM

The bill provides 48 million dollars for an estuary research program, which identifies several estuaries of national importance, including New York and New Jersey Harbor. Under this provision EPA can offer up to 10 million dollars per year on a 50 percent matching basis to states to study and implement cleanup in the New York-New Jersey Harbor area.

BAN ON DUMPING OF SLUDGE IN THE NEW YORK BIGHT

The bill bans as of December 1987 any additional users from dumping sewage sludge in the New York Bight 12 miles off Sandy Hook, N.J. The bill also restricts the use of the site 106 miles off the coast to those currently using the 12 mile site.

FUNDS FOR BOSTON TREATMENT PLANTS

H.R. 1 includes 100 million dollars to fund sewage treatment plants in Boston Harbor, assisting Boston in complying with its court ordered directive to stop dumping sludge in the ocean.

GREAT LAKES OFFICE

The conferees agreed to establish a Great Lakes International Coordination Office within EPA to focus on control of toxic pollutants and achievement of goals in the Great Lakes Water Quality Agreement of 1978. The bill also establishes a Great Lakes Research Office with the National Oceanic and Atmospheric Administration to carry out a comprehensive Great Lakes research program, with special attention to sediment control projects.

The Great Lakes Office program includes a $11 million annual authorization from 1987 to 1991 for a data base for monitoring and clean up of the water quality of the lakes, and for priority cleanups of contaminated sediments in five target areas in the nation, one of which is the Buffalo River in New York.

TOXIC HOTSPOTS

The Clean Water Act Amendments of 1987 establish a new "toxic hotspot" program which requires EPA and the States to work together to identify toxic hotspots which require special attention and additional controls. EPA has already tentatively identified 34 of these areas which may require more stringent controls than the "best available technology" standard currently mandated by the Act. Albany, Rochester, and Syracuse were areas in New York listed by EPA for this priority attention. In addition, the International Joint Commission has identified 42 areas of concern for toxic pollutants in the Great Lakes. These include the Buffalo River, Eighteen Mile Creek, Rochester Embayment, Oswego River, Niagara River and St. Lawrence River in New York. EPA will review the IJC's recommendations in augmenting its toxic hotspot program.

All in all, this is a most worthy bill. I join my Chairman, Senator Burdick, Subcommittee Chairman Senator Mitchell, and Colleagues on the Environment and Public Works Committee, and other cosponsors in urging its immediate consideration and passage. I ask that an Appendix listing priority water projects in New York State be included in the RECORD at this point.

APPENDIX A.—ESTIMATE OF FEDERAL CONTRIBUTION TO PRIORITY WATER TREATMENT FACILITIES IN NEW YORK STATE

	Estimated total cost	Estimated Federal share
Ft. Covington (St. Lawrence County)	$2,726,000	$1,499,300
Village of Oxford (Chenango County)	4,610,600	2,535,830
Village of Gowanda (Cattaraugus County)	9,700,000	5,335,000
Village of Croghan (Lewis County)	2,700,000	1,485,000
Schuylerville (Washington County)	1,268,500	697,675
Cuba (Allegany County)	2,900,000	1,595,000
Cedar Creek Sewage Plant (Nassau County)	48,000,000	36,000,000
Mamaroneck Sewer District (Westchester County)	8,625,000	4,743,750
Dewey Eastman Tunnel (Monroe County)	24,300,000	13,365,000
City of Gloversville (Fulton County)	6,170,000	3,393,500
Batavia (Genesee County)	28,776,000	15,826,000
Buffalo (Erie County)	5,589,565	3,074,261
South Glens Falls (Saratoga County)	3,500,000	1,925,000
Chautauqua (Chautauqua County)	440,877	310,457
Binghamton (Broome County)	11,831,300	6,507,215
Cheektowaga (Erie County)	872,765	654,564
Cheektowaga (Erie County)	263,050	144,678
Great Neck (Nassau County)	16,277,681	8,952,724
Great Neck (Nassau County)	2,990,776	1,644,927
Westchester County (New Rochelle)	650,000	487,000
Greece (Monroe County)	1,043,500	573,925
Rochester (Monroe County)	13,500,000	10,125,000
LeRoy (Genesee County)	437,333	328,000
Owls Head (Brooklyn)	14,816,963	11,112,722
Owls Head (Brooklyn)	48,588,494	36,441,370
Owls Head (Brooklyn)	53,119,363	39,839,523
Oakwood Beach (Staten Island)	49,000,000	26,950,000
Oakwood Beach (Staten Island)	5,000,000	3,750,000
Project (after 1987)		
Oakwood Beach (Staten Island)	100,000,000	NA
Owls Head (Brooklyn)	87,000,000	NA
Coney Island (Brooklyn)	280,000,000	NA
Bay Park (Nassau County)	53,000,000	NA
Mamaroneck (Westchester County)	116,000,000	NA
Rochester (Monroe County)	27,000,000	NA
Oriskany Falls (Oneida County)	4,300,000	NA
Stillwater (Saratoga County)	1,300,000	NA
Bolivar (Allegany County)	2,2000,000	NA

Ms. MIKULSKI. Mr. President, I am very pleased that my first remarks on the floor of the U.S. Senate are on an issue of enormous importance to Maryland and the Nation—the Water Quality Act of 1987.

It is altogether fitting that this important piece of legislation is the first item on the agenda for the 100th Congress. It is with great pleasure that I rise in support of this bill.

I worked very closely on this bill as a Member of the House of Representatives in the 99th Congress. By passing this legislation, we will once again send a strong message to the administration, corporations and citizens alike: That this Congress knows that good environment is good business; and there is no conflict between the two.

What does this bill do? It does a number of important things for America and for the State of Maryland. Of particular interest to the State of Maryland is its significant impact on the cleanup of the Chesapeake Bay.

Mr. President, we in Maryland are proud of our bay. It is part of our history and our heritage. We have the bluest crabs, the finest oysters, and the best watermen to be found anywhere. That is the legacy we want to pass on to our children and our grandchildren. This legislation will help us do that in Maryland and in every area of this country where important estuaries exist.

This bill will do much more, however, than just clean up the Chesapeake Bay and other estuaries. It will help pay for construction of new sewage treatment plants that our growing communities must have—and it will modernize existing sewer systems which our older towns and communities already have. As a result of this legislation, the State of Maryland will receive $59 million each year for sewage treatment improvements. This is a public investment that is good government and good business. It will lead to rational growth and development and will help communities help themselves.

For the first time, this bill will require States to develop and implement programs to control nonpoint source pollution into our rivers, streams, and bays. Oil and grease runoff from city streets, pesticide runoff from farms, and polluted runoff from new construction sites must be stopped and the States are in the best position to implement controls to do just that.

Scientists confirm that 50 percent of the pollution in the upper areas of the Chesapeake Bay comes from nonpoint pollution, mostly in the form of farm runoff. Earlier this year, we had a great tragedy in Maryland—a very severe drought. While the drought hurt farmers, it helped the cleanup of the Chesapeake Bay by reducing farm runoff. Mr. President, the cleanup of our Nation's estuaries should never have to depend on natural disasters. We must take control of the problem ourselves and correct it. This legislation will do that.

One final point, Mr. President. The Water Quality Act of 1987 also includes provisions for the National Estuary Program. This program is modeled after the Chesapeake Bay Program which unites the effort of Maryland, Virginia, Pennsylvania, and the District of Columbia in cleaning up the Chesapeake Bay. The offices for the Chesapeake Bay Program are located in Annapolis, MD, and receive $3 million a year in funding under this legislation. That is money well spent because it is used to monitor the Federal expenditures used for bay cleanup efforts, making sure that money is spent wisely and effectively. What we have learned in this region about cleaning up the Chesapeake Bay will be of valuable assistance nationwide as other States and regions work to clean up their polluted waters.

By saving a great estuary life in the Chesapeake Bay, we are saving existing jobs and creating new ones—from the watermen out on their skipjacks who bring in the crabs to the waiters who serve them at Phillips restaurant in Baltimore's inner harbor.

But it is more than just restaurant jobs that we save by saving our estuaries; it is the whole gamut of real estate jobs from salespersons to developers and it is thousands of jobs related to the tourism industry from desk clerks to summer lifeguards. In voting for this legislation, we are voting for a balance between good business and good environment—and that is good government.

This bill will result in public investments that will generate private sector jobs. It will secure to future generations of watermen and the industries they support a livelihood and a way of life. It will save for us all and our children an irreplaceable natural resource otherwise threatened by destruction.

This is not an ill-conceived spending bill. Rather, it is an investment that will help get Maryland and our country ready for the future; an investment that will yield dividends for generations to come.

Unless we want the Chesapeake Bay and other estuaries from Maine to Florida, from New York to California, to become 20th century Sargasso Seas, then we must pass this legislation.

I urge my colleagues to vote yes on the Water Quality Act of 1987 and I thank the leadership of the Senate for bringing this most important bill to a vote so early in this session.

I yield the floor.

Mr. SARBANES. Mr. President, I rise, first, to congratulate my very able and distinguished colleague from Maryland for her very effective floor speech in behalf of the Water Quality Act of 1987. It is her maiden speech on the floor of the U.S. Senate and obviously augurs well for the future, because it was a very well structured, highly effective presentation of the case for this legislation.

My colleague has had a longstanding interest in the clean water issue, particularly as it affects the Nation's greatest estuary, Maryland's Chesapeake Bay.

While as a Congresswoman for 10 years she has represented an urban district, she has been extremely sensitive to the environmental considerations involved in the clean water bill and has recognized that good environment is good business and that there need be no conflict between the two. I think it is a reflection of the longstanding interest she has had in this matter that she should on her first occasion to take the floor of the Senate to speak in such strong and effective terms in support of this legislation. I congratulate her on her first statement to the Members of the Senate, and predict that her effective advocacy is going to have a very strong influence on the thinking of the Members of this body.

Mr. President, I am pleased to join my colleague, Senator MIKULSKI, in strong support of H.R. 1, the Water Quality Act of 1987, to reauthorize and improve the Clean Water Act.

This legislation is identical to S. 1, which I joined in cosponsoring, and it is identical with the legislation which passed both Chambers last fall. It was agreed upon between the two bodies and then was unfortunately pocket vetoed by President Reagan—after the adjournment of the Congress.

Passage of this legislation is one of the highest legislative priorities I set for this session, and is certainly one of the highest priorities for the State of Maryland and for those who use its waterways.

I want to thank Senators BURDICK, STAFFORD, MITCHELL, and CHAFEE and other members of the Environment and Public Works Committee for their leadership in bringing this legislation so expeditiously to the floor of the Senate.

Let me focus on the legislation for a moment from the Maryland point of view because it contains several provisions critical to our continuing efforts to clean up the Nation's largest and most productive estuary, the Chesapeake Bay.

The bill recognizes the critical importance of the bay and authorizes $52 million over a 4-year period for the State-Federal Chesapeake Bay Program.

The bill provides $3 million a year to support the Office of Chesapeake Bay Programs in the Environmental Protection Agency, an office located in Annapolis, MD, and in addition provides $10 million a year in cost-shared grants to the bay area States. It will, therefore, help to ensure the continuation of a multistate program which our former colleague, Senator Mathias, had so much to do in putting into place.

Second, this legislation reauthorizes the municipal sewage treatment construction program, a vital part of any effort to improve the Nation's water quality. While the $13 million a year to which I just referred for the specific Chesapeake Bay Program itself is important, we cannot successfully improve the water quality of the Chesapeake Bay without the sewage treatment construction program.

More than 1,000 sewage treatment plants discharge directly or indirectly into the bay and their effluent represents a substantial part of the total pollutant load to the bay, including approximately 60 percent of the total phosphorous load. Through comprehensive sewage treatment, significant reductions in nutrients and toxic pollution have been achieved since the passage of the Clean Water Act in 1972 but continued progress toward construction and upgrade of sewage facilities throughout the bay watershed is necessary.

The State of Maryland alone needs at least $60 million a year to meet the goals of the Clean Water Act and to reduce nutrients and toxics currently being discharged into the Chesapeake Bay. Under this legislation funds for treatment plants would still be available on a formula basis and would be recycled as States repaid loans under a revolving fund loan program. This will enable the States to move toward financial self-sufficiency for waste water treatment construction.

Third, the bill establishes a very important new program to control nonpoint source pollution such as runoff from farmland and from city streets and authorizes a total of $400 million over 4 years to help States carry out nonpoint pollution control and related ground water protection activities.

Nonpoint source pollution has been identified as a key factor in maintaining water quality. The EPA 7-year Chesapeake Bay study underscored the importance of addressing the nonpoint source pollution problem, and I welcome the program contained in this legislation as a major effort to come to grips with this issue.

In addition, this legislation contains a number of other provisions which will strengthen our efforts to clean up our Nation's waters, including permits for municipal and industrial storm water discharges, provisions to prohibit backsliding; that is, the relaxation of cleanup requirements when a discharge permit is renewed or rewritten and a new program to combat toxic hot spots, waters which will not meet water quality goals even after the best available cleanup technologies required by law have been installed.

Mr. President, I again commend the committee and its leadership for very quick action in bringing this measure to the floor. It should already have been law because with a vote of 96 to 0 in the Senate and 408 to 0 in the House last session, it was obviously sent to the President not only with overwhelming congressional support but unanimous congressional support. Unfortunately, the President chose to pocket veto the legislation. It is, therefore, necessary for us to reenact it.

The measure before us is exactly the measure that was cleared by the last Congress and which had such overwhelming and unanimous support from the membership.

I would hope that the President would see his way clear to signing the legislation this time. If not I very much hope that Congress will enact it into law, the veto of the President notwithstanding.

This is a very important piece of legislation, one of the most significant that will come before this body in the 100th Congress. It addresses a pressing national problem. In addition, it addresses a problem of keen and critical importance to us in the State of Maryland.

I urge its enactment, and I close by again congratulating my colleague from Maryland for her opening speech, which was enormously effective and which obviously was the forerunner of many similar such presentations which I think it will be the privilege of this body to hear in the coming months and years.

Mr. President, I yield the floor.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BURDICK). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Colorado.

Mr. WIRTH. Thank you, Mr. President.

This is an enormously important piece of legislation.

I want to join my fellow Senators in commending the distinguished Senator from Maine and the distinguished Senator from Vermont for their expeditious handling of this very important bill.

From my region of the country, it is no mystery that water is the lifeblood of that whole area. We have spent most of our history talking about how we might store and use water. That era has slowly but surely come to an end and the issue now has become how do we preserve that water and how do we assure that that water is as clean as it can be.

This legislation goes a long way toward helping us with that second great challenge that we face now in the second century of my State's history.

We also are deeply concerned, Mr. President, about the economics of water in the State of Colorado and in my whole region. It is very clear that increasingly our economy is dependent upon recreation, tourism, sports—other very important uses of our water.

And if we do not have clean water, it is going to be extremely difficult for us to maintain not only the health of our economy but the quality of our life.

For those reasons I once again urge my colleagues' expeditious handling and passage of this important legislation and once again commend my colleagues for moving this bill as rapidly as they have.

This bill is essential to protecting the health and safety of American families who rely upon our lakes, rivers, and streams for their drinking water. Toxic water pollutants frequently accumulate in stream sediments and in aquatic life. As a result, these hazardous substances will persist for many years. We must get on with the task of eliminating these discharges from the Nation's waterways now.

Water pollution also threatens the natural environment. Each of us is poorer for the loss of valuable wildlife habitat to the steady effects of water pollution, regardless of whether the source of that pollution is an industry, an urban area, or an abandoned mine. The strengthening amendments in the bill before us today will give EPA and the States the tools they need to protect water quality and to clean up those streams and rivers that are still polluted.

Finally, Mr. President, this bill makes good economic sense for my State. Recreation and tourism is now the second largest industry in Colorado. Last year, nearly 1 million anglers spent a total of nearly 10 million recreation days fishing in Colorado. Colorado's untamed rivers were used by tens of thousands of people for recreational boating and rafting. And snowmaking made it possible for skiers from around the world to ski earlier and longer than they otherwise could have.

The Clean Water Act, which was first enacted in 1972, has achieved many of its purposes. Industrial and municipal pollution have been reduced. As a result, the water quality of many streams has improved, in some cases dramatically. Atlantic salmon are being reintroduced to cold water streams along the northeastern Atlantic coast. Lake Erie and Lake Ontario are reviving. And the majority of lakes and streams in this country support sport fish populations.

But challenges remain. In many parts of the country, including my State of Colorado, there are toxic pollution hotspots that threaten our health and our environment. The Federal and State environmental agencies have understood for some time that some major sources of pollution have been ignored, especially storm water runoff from urban areas, mining sites, and agricultural lands. And many cities still do not have adequate wastewater treatment facilities.

The bill that is before the Senate today will provide Federal and State environmental agencies with the tools they need to significantly reduce the discharge of toxics into the Nation's waterways.

Even in small quantities, pollutants like arsenic, lead, and PCB's threaten human health and environmental quality. In Colorado, the release of toxic chemicals such as these from mining sites is polluting major rivers and killing fish for miles downstream. This bill will strengthen the ability of Colorado officials to clean up these pollution sources. Once we have done that, we can reintroduce trout and other fish to the rivers, while reassuring downstream communities that their drinking water supplies are safe.

This bill also establishes a new Federal-State program to control pollution from diffuse sources such as city streets and open farmland. While the effect of this so-called nonpoint source pollution may not be immediately evident, the pollution accumulates in lakes, reservoirs, and estuaries and causes serious environmental problems. In fact, many experts have said that these nonpoint sources account for nearly half of all water pollution. The bill before us will give the States and the Environmental Protection Agency a mandate to address this serious problem.

H.R. 1, to reauthorize and strenthen the Clean Water Act, will enable Colorado and other Western States to protect their water resources, their environment, and their economies. This is a good bill, Mr. President, and I urge its swift passage.

PROPOSED UNANIMOUS CONSENT REQUEST

The PRESIDING OFFICER (Mr. WIRTH). The Senator from West Virginia.

Mr. BYRD. Mr. President, the distinguished Republican leader and I and others on both sides of the aisle have been discussing a time agreement which will allow for the distinguished Republican leader to call up an amendment equivalent to the bill which presently is on the calendar and is shown as S. 76. The agreement if entered into, will allow the Republican leader to such an amendment properly styled so as to conform to the requirements of its being a substitute amendment or an amendment in the nature of substitute for the House bill.

He would call his amendment up at around 2:30 p.m. today and debate would proceed thereon. If the agreement is entered into, there would be no amendment in order to the Republican leader's amendment. He would have modified it in certain ways which we have already discussed and which we will discuss further in a moment.

He would call up the amendment around 2:30 today. There would be no votes thereon today. The Senate, then, when it has concluded its business today, would go over until Friday. The Senate would come in at noon on Friday, for the purpose of having routine morning business, introduction of bills and resolutions, statements by Senators and so on, with no rollcall votes on Friday, with the Senate then going over until Tuesday next. This would be in conformity with the schedule already announced, Monday being a national holiday.

On Tuesday next, the Senate would come in at 2 o'clock. On that day, we could work out an agreement for the control of time, so that time would be equally divided and controlled on that day, Tuesday afternoon, with no rollcall votes that afternoon, with one exception. If it is necessary in order to get a quorum and we have to have the Sergeant at Arms proceed to help establish a quorum, we might have to have a rollcall vote, but hopefully not.

Then, the Senate, on Wednesday, would proceed at 4 o'clock in the afternoon to vote on the amendment by Mr. Dole, as modified, without any motion to commit being in order and with a vote to occur on final passage of the House bill, H.R. 1, as amended, if amended—hopefully it will not be amended—but with that vote to occur immediatately without any intervening action. So that, indeed, there would be two rollcall votes back to back beginning at 4 o'clock Wednesday afternoon. Then, immediately following action on H.R. 1, the Senate would take up a concurrent resolution, which would contain the substance of House Concurrent Resolution 24. There would be a short time agreement on that resolution, which would be part of this overall agreement, with no amendments thereto and no motion to recommit.

That is, in broad form, what the agreement would accomplish if it is entered into. I have not proposed the agreement, but I am ready to do so, if no Senators have any questions concerning the general outline of the agreement and what it would accomplish.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. Thank you, Mr. President. If the majority leader would yield for a question, as he has indicated he is prepared to do, I do have a question that I would ask him to entertain.

This morning, I made a speech during morning business indicating my intention to introduce an amendment to the Clean Water Act that would disapprove the proposal by the President for congressional pay raises. I am obviously very much concerned that we have the opportunity to vote on that question within the 30 days after receipt of the President's proposal. I have the amendment to the Clean Water Act that I intended to introduce.

My question, very simply, is that the agreement which the majority leader has just described would, of course, preclude any other amendments than that being offered by the distinguished Republican leader. What assurance do those like me and, I think, Senator Thurmond, who has a similar measure, although it is broader in scope, what assurance do we have that, if we do not seek to amend the Clean Water Act, there will, in fact, be an opportunity for this body to register our disapproval prior to the lapsing of the 30 days?

Mr. BYRD. Mr. President, the distinguished Senator from California has posed a pertinent question. I can understand his concern and I will attempt to provide him with assurance at this point.

I hope that the clean water bill, H.R. 1, will not be amended in any form, so that the bill may go directly to the President for his signature. Therefore, I have to state at the beginning that I am opposed to any amendment to the bill.

The Senator is quite right, if the agreement is entered into, there will be no amendment in order except the amendment by Mr. Dole.

I can assure the Senator—and without any reservation I will assure him—that if no amendment is offered dealing with the recommended salary increases to the clean water bill, the Senate will have an opportunity to vote on that matter within the 30-day time period.

Anticipating that the Senator or a Senator might want assurance on this point, I discussed earlier this morning with the distinguished chairman of the committee which would have jurisdiction over that subject matter—and I have reference to Mr. Glenn—the fact that I was pursuing a time agreement and that this question might come up; if not the question, an amendment might be offered. Senator Glenn is in agreement with me that there will be a vote and there should be a vote on the subject matter that the Senator has raised. The Senator from California may rest fully assured that the Senate will have the opportunity to address that matter within the time period that is allowed under the law. Therefore, I hope that the Senator will not offer his amendment to this bill.

Mr. WILSON. Mr. President, let me say to the distinguished majority leader that his personal assurance would be quite good enough for me if he is able to include within that assurance that it is possible, given his knowledge of the rules and his skill as a parliamentarian, to overcome any possible objection that some Senator, unbeknownst to him at this present moment, might pose by interjecting the withholding of unanimous consent. Is there a means whereby we can be assured that this question will be put to a vote that does not depend upon unanimous consent?

Mr. BYRD. Mr. President, I can give the Senator assurance that a vehicle can be brought before the Senate without debate on proceeding thereto, and the Senate, therefore, will have an opportunity to address the subject matter and it will be my intention to see that that is done. Senator GLENN was in no position today to say what action his committee will take. He will be discussing that, I am sure, with other members of the committee. The committee may bring out a resolution or it may not. If it does not, and all other efforts fail, we have rule XIV available. And I can assure the Senate that rule XIV will be utilized if it is the last resort.

A motion can be made at the proper time that is not debatable. The Senate then would vote on taking up a resolution which by then will be on the calendar. When the resolution is called up before the Senate it is open to amendment just like any other resolution.

Mr. WILSON. I thank the majority leader. I do appreciate his taking the time to be specific in terms of the options that are available. I think it is important that we understand it as precisely as possible because it is an important question.

Based on the assurance that he has given me—and I know his word is good, and his knowledge of the rules is just as good—I will not, as I had intended, offer this amendment at this time nor will I withhold consent to his proposed request.

Mr. BYRD. May I say in responding to the distinguished Senator that the distinguished Republican leader has already gone into this matter very carefully with me. And this is one of the questions that he raised on behalf of his colleagues on that side of the aisle. I gave the Republican leader the same assurance, and I am confident that he will help me in every way to carry out the promise that I have just committed myself to; namely, that we do get a disapproval resolution on the pay raise recommendations up before the Senate. So my commitment will have been kept.

Mr. WILSON. I thank the majority leader. I appreciate his gracious comments. I thank the Republican leader for his acting as good shepherd on behalf of myself and the other Senators who are interested in this question.

Mr. DOLE. Mr. President, will the distinguished majority leader yield?

Mr. BYRD. Yes. I yield. I yield the floor, Mr. President. I have not yet proposed the request. But I will shortly, after the distinguished Republican leader has yielded the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, I have listened carefully to the distinguished majority leader. I think his presentation takes care of the discussions we had earlier. It covers I think every aspect of it. I am pleased that there will not be other amendments either to the bill or to the substitute. The substitute would be a bit different from what I introduced earlier. I have shown both the distinguished Senator from Maine and the majority leader those changes.

There are four or five projects to be added plus a technical correction that would affect a project in Kansas. I think those are the only changes that are made in the substitute. I would be prepared to offer that substitute I hope by 2:30, no later than 3 o'clock today. I am prepared based on the informal description whenever the majority leader is ready to agree that we ought to get the agreement.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD. Mr. President, I thank the able Republican leader. I, therefore, now shall propound the unanimous-consent request.

Mr. President, I ask unanimous consent that the distinguished Republican leader proceed not later than 3 o'clock today to offer, as an amendment to H.R. 1, S. 76 which was put on the calendar by Mr. DOLE as modified—and the modifications will be identified by the distinguished Republican leader in a moment precisely for the record—and that he be authorized to call up his amendment properly styled so as to conform with the requirements of a complete substitute or an amendment in the nature of a substitute—because it is on the calendar now as a bill;

That there be no amendments in order to the amendment by Mr. DOLE;

That there be no other amendments in order to the bill, H.R. 1;

There be no motions to table the amendment offered by Mr. DOLE; and

That the Senate upon its completion of business today adjourn over until the hour of 12 o'clock noon on this coming Friday;

That no action occur on the amendment or the bill on Friday except that debate may ensue thereon;

That the Senate on the completion of its business on Friday adjourn over until Tuesday next at the hour of 2 o'clock p.m.;

That on Tuesday the Senate operate under controlled time for debate on the measure and on the Dole amendment which would be pending;

That such controlled time be determined by the distinguished Republican leader and myself after discussions with the managers involved;

That a vote occur on the amendment by Mr. DOLE, as modified—in accordance with the identifications that will be made shortly—at 4 o'clock p.m. on Wednesday; that a vote occur immediately, then, thereafter on H.R. 1, as amended, if amended, without any intervening action or further debate;

That no motions to commit or recommit be in order whether with instructions or otherwise;

That there be no time on any motion to reconsider the vote on H.R. 1;

That paragraph 4 of rule 12 be waived;

That upon the disposition then of H.R. 1, as amended, if amended, the Senate proceed immediately without any intervening debate or motion or point of order, to a concurrent resolution, the substance of which would be as shown in House Concurrent Resolution 24;

That on such concurrent resolution there be a time limitation of 20 minutes to be equally divided and controlled between Mr. MITCHELL and Mr. CHAFEE;

That no amendment be in order to the concurrent resolution;

That no motion to commit with or without instructions be in order.

Mr. President, I think the agreement that I have proposed covers all the bases. If the distinguished minority leader would not mind at this time before the agreement is entered into, he could identify for the record the modifications that he has sent to the desk, and which would be in the amendment which he will call up no later than 3 o'clock today.

Mr. DOLE. Mr. President, I thank the distinguished majority leader. I think the agreement propounded does express the intent of both the Republican and Democratic leaders. S. 76 was the substitute or the bill I introduced which at that time I think I indicated in my statement was offered as a substitute.

I modified S. 76 in the following ways: section 212, certain improvement projects; section 215, the Chicago Tunnel and Reservoir project; section 521, San Diego, CA; section 522, Oakwood Beach project in New York; section 525, Boston Harbor and adjacent waters; section 524, waste water reclamation demonstration; section 525, Des Moines, IA; section 526, study of de minimis discharges; section 527, amendment to the Water Resources Development Act.

Those modifications have been shown to both the distinguished Senator from Maine, Senator MITCHELL, and the distinguished majority leader. What has not been given them is the amendment to the Water Resources Development Act. That concerns a project in Kansas.

Mr. MITCHELL. Will the distinguished Senator yield for a question?

Mr. DOLE. I am happy to yield.

Mr. MITCHELL. Section 212, entitled "Improvement Projects," as I understand it is identical to the similar section in S. 1. If I might now state for the record the specific projects which are included within the general category of approved projects to confirm their identical nature, those are specific projects in Avalon, CA; Walker and Smithfield Townships, PA; Taylorsville, KY; Nevada County, CA; Wanaque, NJ; Lena, IL; Wyoming Valley Sanitary Authority, PA; and Altoona, PA.

Mr. DOLE. Correct.

Mr. MITCHELL. I thank the Senator.

Mr. DOLE. If the Senator will yield, he had a question on sections 5 through 7. That will be the technical correction related to a project in Great Bend, KS.

Mr. BYRD. Mr. President, two further provisos with respect to the concurrent resolution, being namely these: that there be no time for debate on any motion to reconsider the final vote on that concurrent resolution, and, furthermore, that no motion to table that concurrent resolution be in order.

Mr. HUMPHREY. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. HUMPHREY. I want to express concern about the pay raise situation. It seems to me that if the Senate agrees to the unanimous-consent request as it now stands, we might well be giving the House an opportunity to avoid a vote altogether on the pay raise issue. If we attach the matter to the Clean Water Act as proposed by Senator WILSON, then the House would be forced to vote on it. If instead, to accommodate other matters, we agree to this request and Senator WILSON is foreclosed from offering his amendment on the promise that it could be brought up as a separate matter, then the House will obviously have the opportunity of just ignoring it, and the pay raise will go into effect automatically. What is the date?

Mr. WILSON. February 5.

Mr. HUMPHREY. February 5.

I am sorry I was not here for the whole discussion. Was there a stipulation of by what date would the free-standing resolution be brought up?

Mr. WILSON. Will the Senator yield?

Mr. HUMPHREY. Yes.

Mr. WILSON. The Senator is correct. The date on which this would become effective, as I understand, would be February 5. In the hypothetical situation that he poses, were that to actually occur, it is my understanding that it is possible thereafter to bring an amendment to any other legislation that could undo the enactment of that pay increase. I will tell the Senator from New Hampshire right now that if necessary I will undertake that, I am sure with his support and the support of others. I quite agree that the preferable way to go about this is to not let it become law, rather than having to subsequently undo it. But that option is available if the House approves.

Mr. HUMPHREY. I will make a point in response to that, that the House in having the opportunity to ignore such a resolution would have even more motivation to do so inasmuch as the money is in the bank, so to speak.

Has the majority leader indicated by some date certain that he would support the offering by some date certain of whatever it takes to block this automatic measure? Has that been discussed?

The clock is running. We have been asked to give up our very best opportunities today. The clock will continue to run. It will be harder and harder to undo this thing. It is not really a humorous matter. It may very well involve a constitutional issue. I believe it does. I have joined in a lawsuit on that basis. It is backdoor and in my opinion not the legal way to raise the pay of Members of Congress. That is my opinion.

I guess I have to defer to Senator WILSON on this but it would be helpful for me to know that by some date certain the leadership will support the resolution or whatever it is going to take to block or rescind the pay raise.

Mr. BYRD. I am not sure that I can say today just when that matter would be before the Senate. I have talked with Senator GLENN, who is chairman of the Government Operations Committee. This is a matter that comes within the jurisdiction of that committee. I will be talking with him further.

I can assure the Senator that the Senate will vote on the matter. I made that statement publicly when I was on television not too long ago with the distinguished Republican leader. I made that commitment to the people. I have renewed that commitment here today. I cannot say that it will be done by tomorrow or next week, but it will be done certainly within the period as set forth by the law.

Mr. HUMPHREY. I wonder if the majority leader will permit me to consult with the Repubican leader before the Chair rules on this request.

Mr. President, I withdraw my objection.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request made by the majority leader? The Chair hears none.

Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the Republican leader for his cooperation in working out this time agreement. I thank Senators MITCHELL and CHAFEE, BURDICK, STAFFORD, and all other Senators who have had a part in this matter. I thank Senator WILSON and Senator HUMPHREY for their cooperation.

The text of the agreement follows:

Ordered, That during the consideration of H.R. 1, an act to amend the Federal Water Pollution Control Act to provide for the renewal of the quality of the Nation's waters, and for other purposes, the only amendment in order be a substitute amendment offered by the Senator from Kansas [Mr. DOLE], against which no motion to table be in order: *Provided*, That on Friday, January 16, 1987, the bill be considered for debate only, with no action permitted thereon: *Provided further*, That upon resumption of the bill on Tuesday, January 20, 1987, time for debate be controlled as determined by the majority and minority leaders: *Provided further*, That a vote occur on the amendment at 4 p.m. on Wednesday, January 21, 1987, followed immediately thereafter by a vote on H.R. 1, as amended, if amended, with no intervening debate or action, no motion to commit with or without instructions, and no debate on a motion to reconsider to be in order: *Provided further*, That rule XII, paragraph 4, be waived.

Ordered further, That immediately upon the disposition of H.R. 1, the Senate proceed without intervening debate or motion to the consideration of a concurrent resolution containing the substance as shown in House Concurrent Resolution 24 and that there be 20 minutes of debate thereon, to be equally divided and controlled by the Senator from Maine [Mr. MITCHELL] and the Senator from Rhode Island [Mr. CHAFEE]: *Provided*, That no amendments, no motions to table, no motions to recommit the resolution, and no debate on a motion to reconsider the resolution be in order.

WATER QUALITY ACT OF 1987

Mr. MITCHELL. Mr. President, the distinguished minority leader has just entered the Chamber. He is ready to present his substitute amendment.

AMENDMENT NO. 1

Mr. DOLE. Mr. President, I send an amendment to the desk in the nature of a substitute in accordance with the unanimous-consent agreement and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment in the nature of a substitute numbered 1.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the amendment is printed in today's RECORD under amendments submitted.

Mr. DOLE. Mr. President, I will just take a few moments at this time to touch on the substitute. As I understand from the agreement, there will be additional time for debate. We might do that maybe on Friday or maybe on next Tuesday or Wednesday.

Mr. President, this is the 100th Congress, a very important Congress. The Democrats have the majority. As I have done many times, I congratulate them on their splendid victories last November, particularly of our distinguished chairman, the Senator from Maine, the chairman of their campaign committee, who played a vital role in that election.

Being in the majority, the Democrats will have the right to select the only bill to be numbered S. 1 and to select the first bill for floor consideration. They have chosen a good topic and a good issue—clean water.

The debate today is not whether any Senator, I assume, is for or against clean water. Both the administration's proposal and the bill vetoed last year make credible advances in improving water quality.

AFFORDABLE

The question before the Senate comes down to what we can afford, what we can afford with record deficits, and the one staring us in the face in this year of 1987 and beyond.

The construction of waste water treatment facilities—primary, secondary, and tertiary treatment facilities—is an extremely costly proposition. There is no question that many times the $12 billion or even $18 billion could be wisely spent for this construction. The question is, can we afford it?

Why are we stopping at $18 billion in S. 1? Why not go for $20, $30, or $100 billion? The why is that we simply cannot afford it.

Last year, the administration simply took itself out of the debate. The $6 billion it was prepared to accept was simply too low. But before anyone decides the administration is still not a player, take at least a cursory view of the offer this year.

ADMINISTRATION BILL

The President has met us half way on money, increasing the acceptable level from $6 billion to $12 billion, or half way between the original $6 and our $18 billion. The President has agreed to our environmental and regulatory provisions. And, the President has agreed to meet us more than half way on extending the authorization, offering 7 years as opposed to our 8 years.

It is a dramatic improvement, it is credible and I would hope it might be acceptable. This substitute responsibly addresses water quality and proposes a responsible Federal portion of the cost of water quality.

The amendment I am proposing does modify the administration's proposal in two ways. The special projects identified by the conferees after almost countless months of negotiations are protected by this substitute. A prime example of this is the so-called San Diego/Tijuana project that will help clean up pollution flowing into the United States from Mexico. This problem was not created by the State of California or local communities, and it seems only fair not to force them to pay the cost of the cleanup.

It also contains a technical correction to Public Law 99-662, the Water Resources Development Act that passed last October. As a result of an unintentional error in the drafting with regard to cost sharing, local communities are responsible for railroad relocations This was intended to be an exception, and the language contained in this amendment would make that correction. The Environment and Public Works Committee is already aware of this error and hopes to make the same correction bill later this year. As a result of this omission in the language of H.R. 6, which passed in the 99th Congress, the community of Great Bend, KS, would be responsible for an additional $5 million as part of its local cost share, which is beyond the city's financial reach.

DIFFERENCES

There are a few important differences in the two proposals. The first is the issue that we have all heard the most about—money, about 6 billion dollars worth of money. I do not have an amendment here for a balanced budget amendment to the Constitution or on the Gramm-Rudman-Hollings fix—maybe I should. I have not seen anything in S. 1 that repeals Gramm-Rudman-Hollings, the targets are still law, as far as this Senator knows. This is $6 billion that will not be available for other worthy causes—education, health, the homeless, defense, and many others.

Another important difference is the nonpoint source pollution program. S. 1 proposes Federal land use planning. My substitute leaves it to the States. I am not certain I want the EPA Administrator to tell my farmers what and where to plant. Maybe the Secretary of Agriculture has not done a good job at it, but I am not sure the solution is to let EPA do it.

The substitute does save $400 million by requiring nonpoint source projects be funded through the State allotments—at the discretion of the States. It also saves money in the establishment of revolving loans by the States. However, like the nonpoint source provisions, the revolving loan program in the bill provides greater discretion to the States.

The substitute is also able to ratchet down on outlays by paying bills when they are due, not before. The so-called payment schedule allows us to reduce deficits, not by reducing authorizations but by imposing good fiscal sense. It may be that those who support S. 1 would want to make this change to their bill—I don't know, but it would be a good improvement.

As we rush to judgment, let me also remind my colleagues of another extremely important matter in S. 1—the Louisiana gypsum matter. The entire Louisiana delegation—both in the Senate and in the House—supports a new compromise to this potentially devastating situation. Originally, at the request of Representative BOB LIVINGSTON of Louisiana, I included the compromise in this substitute. Now, however, I understand we will consider a concurrent resolution to correct this problem.

The House is scheduled to consider a resolution—House Concurrent Resolution 24—to make this change during the enrollment of the bill. But the House will not get to the resolution until next week. If we were to act today without amending the bill, we risk the potential of worsening water quality. All the amendment says is no special breaks—grandfather this issue as it was.

Mr. President, I have certainly taken into account the votes. Last year, as I recall, it was unanimous in both the House and the Senate. Just last week, the House, by an overwhelming vote, passed the same bill that passed last year unanimously. I think there were eight negative votes against the so-called clean water bill. So I harbor no delusions about an overwhelming victory for the substitute.

I am going to vote for it. I think it is responsible. I think it does at least indicate that the first bill we consider in the U.S. Senate is being looked at very carefully, not just by the administration but by those of us who are concerned about the ever-growing Federal deficit.

Will the substitute prevail? It is doubtful. But at least in my view, if we have enough opportunity, and we will have, and I hope we could postpone additional debate until that time, I would like very much to discuss in greater detail the substitute on Tuesday, maybe again on Wednesday before the final vote. I hope by that time, there may be other of my colleagues who will be prepared to do the same.

I am suggesting as I started, that I believe the administration has come a long way. I share the view expressed by the majority leader this morning. This is not an effort to embarrass the administration. There was some question earlier whether we would rush to this vote before the President's State of the Union Message to force the President to veto it, to embarrass the President. That will not happen. Under the unanimous-consent agreement, the President will still have a number of days after the State of the Union Message before he makes a determination whether or not to veto.

I understand those who support the bill that passed last year want no changes. It took a long, long time to reach the stage that they reached. They do not want to go back to conference, do not want any amendments. I guess I can understand that, having had that responsibility as a committee chairman. So I hope that we could begin this session with a strong vote on a substitute.

As I have said, there is no doubt the administration has come a long way. If it is a question of money, we have gone from $6 billion to $12 billion. Some believe it ought to be $18 billion. I guess overall, there has been a lot of progress made in the past several months.

I thank the distinguished Senator from Maine and I thank the distinguished majority leader. I do look forward to discussing this in greater detail later.

● **Mr. GRAHAM.** Mr. President, I would like to emphasize the need to approve H.R. 1, the Clean Water Act. The administration amendment authorizes only $12 billion for the sewage contruction treatment grants program through 1994. This represents a decrease of $6 billion from the $18 billion authorization in the clean water bill before us today. Florida's sewage construction needs alone will surpass $3 billion by the year 2000. Under H.R. 1, Florida is to receive $532.5 million for construction treatment through 1994. With this amount falling far short of our State's needs, we cannot afford to decrease national authorizations further, as the administration proposal suggests.

The proposed $18 billion authorization level includes sewage treatment revolving loan fund set-asides in the Clean Water Act. The administration amendment does not include these set-asides, thus eliminating Federal assistance to the States prematurely without an appropriate period of transition.

Since States are being asked to take on a greater share of the burden in many funding areas, it is important that Federal assistance for these programs be phased out gradually. In this way we can ensure that vital environmental protection efforts will not be abruptly terminated or scaled back so drastically that they are no longer effective.

The State/Federal partnership in the protection of our clean water is vital to the Nation. Federal capitalization grants with which to start up

State revolving loan funds will give States the capability to continue funding sewage treatment on their own.

Major growth States such as my home State of Florida, are particularly vulnerable to problems of pollution and the sensitivity of finite natural resources. Florida is now the fifth most populous State in the Nation and is predicted to be third largest by the end of this century. Sewage treatment and the protection of clean water are very real concerns in Florida.

Given the planned phase-out of the construction treatment program under H.R. 1, the States will be provided an adequate transition period in which to increase fiscal capabilities to make these programs their own. States and localities must be given the capacity to absorb full responsibility of sewage treatment funding. H.R. 1 accomplishes this.

In 1970, as a member of the Florida House of Representatives, I worked to pass a bill which gives the State authority to set up revolving loan funds. Florida also has a grants program which funds about 45 percent of sewage treatment construction for small communities.

However, the State does not have the fiscal capacity to grant money for such large scale projects to major cities, nor to adequately build up a revolving loan fund which could keep pace with Florida's growth. For many of Florida's most vibrant communities, the kind of Federal/State partnership those setaside moneys represent is the difference between access to a system of water quality control and unnecessary degradation of the environment.

We in Florida care deeply about clean water and the complex ecosystems which provide it. We take seriously our stewardship of the lakes and rivers and bays and coastal fisheries which define our State. As Governor of Florida, I issued an executive order to direct the cleanup of Lake Okeechobee. This executive order assumes Federal participation in the Lake Okeechobee cleanup project. Such continued participation is critical to the long-term health of Federal investments, particularly Everglades National Park. The beauty of Florida is an attribute we are proud to share with the Nation and with visitors from all over the world.

We can cite several examples of effective sewage treatment projects in Florida. In Orange County, the Lake Tohopekaliga facility was discharging 40 million gallons of effluent daily into the lake. The effuent is now being spray irrigated, relieving the lake entirely of that daily pollution.

The Iron Bridge Sewage Treatment Plant near Orlando was converted to an advanced waste treatment system which sanitizes over 23 million gallons of effluent a day.

The St. Petersburg plant discharged 49 million gallons a day into Tampa Bay—and the bay was rapidly dying. With the use of spray irrigation, Tampa Bay's water quality has dramatically improved and the marine life is coming back.

In general, our monitoring of the State's 12,000 miles of streams shows a discernible improvement in 887 of those miles and a maintenance of constant levels in 7,000 miles of streams threatened by pollution from rapid-growth communities. Much of this prevention and improvement is attributable to decreased sewage effluent into the State's lakes and streams.

Particularly in Florida, the existence of urban communities is directly dependent on the continued vigor of large and complex freshwater systems. We appreciate the care we must take to shield those systems from the damage rapid growth can generate. And other areas of the country are no less concerned for the quality of their water.

Very briefly, I would also like to mention the administration's exclusion of nonpoint source pollution program authorizations. The authorization in the clean water bill of $400 million in State grants is necessary to further prevent the degradation of our Nation's waters from nonspecific sources of water pollution, such as runoff from fields and parking lots. Many States do not have a nonpoint source program in place. Florida is fortunate to have an existing nonpoint program; however, funds are only available to issue permits for new nonpoint source discharges. Existing discharges are exempt from the permit process merely because the funds are not available. Nonpoint source discharges are a major source of water pollution, and must be addressed if we are to preserve our water quality.

In light of the water quality protection needs of the State of Florida and the United States as a whole, I urge my colleagues to vote "no" to the administration amendment thus casting a "yes" vote for an unamended Clean Water Act reauthorization.

Mr. MITCHELL. Mr. President, the distinguished minority leader has submitted his proposed substitute amendment and suggested, appropriately in my judgment, that further debate occur on next Tuesday and Wednesday prior to the vote on the bill. I would like now to make a brief statement as we evaluate the substitute and the legislation itself. I think it is important, in order to do that, that we go back and look briefly at the history of the Federal Water Pollution Control Program, with speific reference to the events that occurred early in this administration.

In 1948, the U.S. Government began, for the first time, a national program to control pollution into our Nation's waters and to clean up those waters. The American people were disgusted and sickened by the fact that most major rivers in this country had become stinking, open sewers, not suitable for swimming, fishing, or boating. Indeed, in many cases you could smell an American river long before you could see it.

From 1948 to 1972, a modest Federal program existed in an effort to stem the tide of water pollution, with limited success.

In 1972, Congress passed what is the modern version of the Clean Water Act, which significantly increased the Federal effort and as a result significantly increased the degree of success that was occurring in cleaning up our Nation's water. As a result of that legislation, Federal investment in clean water rose dramatically, reaching a peak of $5 billion a year in 1979 and 1980.

The results of course are there for everyone in the country to see. There is not a State in this Union that has not experienced, not one or two but several bodies of water which have been cleaned up as a result of this program, where Americans can now fish, swim, or boat and use what are public properties for public purposes. This is, in fact, one of the most spectacularly effective Federal programs ever instituted.

In 1981, shortly after taking office, President Reagan proposed that there be no further funding for this program. He said to the Congress, "I do not want any more money for clean water in this country unless you reduce the size of the program, reduce the scope of the program, and reform the program."

And so in 1981, this Congress and the Senate Committee on Environment and Public Works, which had jurisdiction, on which I served and which was chaired by the distinguished Senator from Vermont, responded to the President's request. At the President's request, the level of funding for the Clean Water Program was reduced from $5 billion a year to $2.4 billion a year, less than half of what it was. At President Reagan's request, Congress reduced the types and numbers of projects which were eligible for Federal funding. And at the President's request, Congress reduced from 75 to 55 percent the Federal share of those projects which remained eligible for Federal assistance.

So the Congress responded directly to the President's request in major ways: Reducing the level of funding, reducing the types of projects eligible for Federal assistance, and reducing the amount of Federal assistance for each project.

In exchange for that, the President and his administration agreed to continued to support funding for the Clean Water Program for 10 years at a level of spending of $2.4 billion a year. That was the President's agreement. I wish to quote now from the words of the administration spokesman on these matters, the then Administrator of the Environmental Protection Agency, William Ruckelshaus, whom the President, when he introduced him to the country, praised, saying he would be the administration spokesman. This is what Mr. Ruckelshaus said in public at a hearing before the Congress.

> There is an understanding, there is an agreement with the administration, with Congress that for 10 years this level of funding at least is a commitment. We went down to $2.4 billion as a result of that commitment.

Those are the words of the President's spokesman on this issue. He said, "There is an understanding, there is an agreement, there is a commitment."

And so, Members of the Senate, President Reagan's veto of this bill last year and this substitute amendment today initiated by the administration is a breach of that understanding; it is a violation of that agreement; it is a reneging on that commitment. Now we have a substitute which says we will propose a level of spending that is in each of the 8 years covered by the substitute amendment lower than the amount to which the administration made a solemn commitment just a few years ago.

Based on that record, what Member of this Senate can now accept the administration's word regarding the 8 years in the substitute agreement? Who here believes that 8 years would elapse before the administration would come back again and propose a new termination, a new reduction, a new violation of a solemn agreement, understanding, and commitment, all words used not be me, not be any other proponent of this bill, but used by the spokesman for the administration on this matter.

The fact is, of course, this is a lot of money, but the American people have made it overwhelmingly clear they want clean water, and they are prepared to pay the cost of clean water.

The fact is, while we are on the subject of money, the President, who says we cannot afford clean water, who said in effect, "I cannot afford to keep my word to you, the Congress and the American people," is proposing in the very same budget a massive, multibillion dollar increase in foreign aid. The President proposes to spend in 1 year on foreign aid nearly what the Congress wants to spend in 9 years to clean up our Nation's water.

Are those the priorities of the American people? I do not believe so. I believe that the people of this country want clean water. They have seen the remarkable success of this program to date, and they want it continued.

The irony of this whole matter is that the President could well and accurately have declared a victory with respect to the clean water program. The level of funding was reduced at his request. The type and number of projects eligible for Federal assistance were narrowed as a result of his request. The amount of Federal funding for each project was reduced at his request. And in exchange for doing all of that, the administration made a promise; it made a commitment. There was an agreement, there was an understanding, which the President now proposes to break. His veto said to the American people, "Although I made that agreement, although I made that promise, although I made that commitment, I am not going to keep them because we cannot afford it." Instead, what he wants to do is to have several billion dollars more going for foreign aid.

Well, I say, if the United States of America can afford to say yes to President Reagan's request for billions of dollars more for foreign aid, the United States of America can afford to clean up the waters of this country. We can afford to keep agreements that were made. We can afford to maintain understandings that were made, and we can afford to keep the commitment that was made.

On the subject of money, it should be made clear, as I will detail much more specifically in the debate on Tuesday, the amount of money in this bill is far less than the amount of money needed to actually clean up the Nation's water. It is itself a compromise. It is a significant compromise. Members of the committee, led by the distinguished chairman from Vermont, who is here today, and the distinguished chairman of the subcommittee, Senator CHAFEE, who was here earlier, were acutely conscious of the budget problems, and as a result we significantly reduced the amount of money in this bill, below that which is absolutely necessary to clean up the Nation's waters. We significantly reduced the amount of money which was proposed by the House of Representatives. We accepted a compromise. And all during those 2 years when we worked at this day after day, week after week, month after month, the President's position was "Nothing. No cooperation. No assistance"—simply taking a position of no new project starts and a $6 billion level of funding to complete projects underway, which everyone acknowledged was unrealistic.

So I say to my colleagues that we have compromised. I say to my colleagues that we have been concerned with the budget effects, and in fact this level of funding is within the budget resolution. The budget buster would be the multibillion dollar increase in foreign aid that the President proposes when he says the we cannot afford to spend this level of money to clean up the Nation's waters.

So I hope very much that the Senate will reject this substitute amendment, which really ought not be taken seriously, and proceed to enact this legislation again by on overwhelming margin.

I note the presence of my distinguished colleagues, so I will conclude by saying that there will be a further debate on Tuesday. There are many other reasons to oppose this substitute, which omits or undermines most of the major substantive improvements in the bill, wholly apart from the question of money. I will discuss them in more detail on Tuesday.

I yield now to my distinguished colleague.

The PRESIDING OFFICER. The Chair recognizes the Senator from Vermont.

Mr. STAFFORD. Mr. President, with regret that the situation has developed the way it has, I rise in strong opposition to the amendment offered by my good friend and colleague, Senator DOLE, the Republican leader. It should come as no surprise that I do so, because this morning I made an extensive speech supporting H.R. 1.

My distinguished friend, Senator DOLE, would ask us to substitute this administration bill for a bill that Congress developed with over 4 years of work. The Committee on Environment and Public Works, which I was privileged to chair during the last three Congresses, labored many, many hours to bring before this body the bill that this amendment would seek to displace. The Clean Water Act conference bill was passed unanimously by both the Senate and the House last October.

Mr. President, every Member of this body who was here last year voted for the underlying bill, H.R. 1. Every Member voted for it. Why? Because it is a good bill and is very strongly supported by the American people and is needed by the American people.

In passing the clean water bill last fall, we recognized that it is time for the Federal Government to end the Construction Grants Program for sewage treatment plant construction. But we must end it gradually in order to prevent chaos, and we must provide for an orderly transition to a self-supporting State revolving loan fund. H.R. 1 does these things. The proposed amendment does not. It would shortchange the environment by lopping $6 billion off the amount that Congress decided unanimously last year is the minimum needed to phase out the program in an orderly fashion.

When we began the reauthorization of the Clean Water Act several years ago, there were many who did not want to see the construction grants program ended at all. That is not surprising, when you realize that there still is $100 billion of unmet need in this area, in this country. The President, on the other hand, wanted to see it ended almost immediately. Gradually, we were able to forge a compromise—a political consensus that the program should be ended over a period of several years, with a transition to revolving loan funds.

This political consensus was not easily achieved, but we did achieve it. As a result, the bill passed by the Congress last year was supported by all the interest groups: States, cities, environmental organizations, the construction industry, and others. Many of these people were not too happy about it, but they were willing to accept it as the best we could do. None of these groups would support abandoning the consensus bill in favor of an amendment that would reduce funding by an additional $6 billion, which is what the Republican leader's amendment proposes.

Mr. President, H.R. 1 represents the minimum acceptable commitment of Federal support. It is the final payment due on commitments made over the last 15 years. It represents a fair compromise among competing interests, and it is broadly supported. This body should stand by its product and support H.R. 1 by rejecting this amendment.

I very much regret that the President is putting this body through this debate. I believe this amendment will be defeated, and I believe that if the President again vetoes the Clean Water Act, his veto will be overridden. This Senator urged last fall that the President not pocket veto the bill. Many other Senators did the same, from both sides of the aisle. We were joined in this plea by individuals and organizations from all across the political spectrum and from all sides of the water pollution issue. This Senator stated then that a pocket veto would only lead to a political confrontation early in the 100th Congress, a confrontation that the President would not win.

Unfortunately, the President got some bad advice from his most senior advisers, with the result that today this body must again pass a clean water bill, and pass it over a veto if it comes to that.

This Senator would have preferred to have avoided this necessity, but now that it has been thrust upon us, this body must deal with it in the right way. I urge my colleagues to join me in putting the Clean Water Act back on track. Cast a vote for the environment. Vote "no" on this amendment, and then vote "yes" on the underlying bill.

The PRESIDING OFFICER. The Chair recognizes the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, first, I should like to say that I applaud the statements of my distinguished colleagues—the former chairman, Senator STAFFORD, and the present chairman of the Environment Subcommittee, the Senator from Maine [Mr. MITCHELL]. Both have made powerful statements in connection with this piece of legislation.

Mr. President, I hope that the President will not veto this legislation. First of all, I think that the substitute as brought forth for the administration by our Republican leader does not do the job.

The programmatic changes are sufficient. In other words, as I understand his legislation, the parts dealing with water cleanup standards and with treatment of toxics are all the same as they are under H.R. 1. The major difference, of course, is in the amount that is provided.

The argument might be made: "We are trying to meet you halfway. We, the administration, had a bill for $6 billion." That was not accepted last fall, when we were doing this in conference. Indeed, as I mentioned this morning, this goes way back to 1985. The Senate bill was passed in June of 1985, and at that time, the administration had its $6 billion bill.

Now, in the spirit of comity, I suppose, they might be saying, "Well, you were at 18, we are at 6; we will meet you halfway at 12." The only problem with that is that amount is not sufficient to do the job; and H.R. 1, as was pointed out before, does not cover the situation perfectly—the $18 billion. There is no suggestion that that is going to meet all the problems of the Nation. The problems of the Nation are in excess of $75 billion.

H.R. 1 is a House-Senate bill, it is the conference committee report that, as has been said before, passed both Houses unanimously in October.

As I mentioned, the Senate passed its version in June of 1985. In July 1985 the House passed its version. Then it took us a long, long time to thrash out the differences, basically coming to the Senate bill.

We came down, at least the House did, and it is to their credit. They recognized the necessity to save what money is possible and so the total amount that is involved in this was some $7 billion less than the House bill.

Now, what is the matter with the difference between $18 and $12 billion? The difference of $6 billion is very, very important. And furthermore, this legislation provides not only that $2.4 billion that was agreed upon in 1981 when, as Senator MITCHELL previously said, we went through these very dramatic cuts in the program, and this was in response to the new administration that had come in and I had the privilege of being the chairman of that conference committee. The House was not enthusiastic about making these cuts, but we did them because we felt that the budget had to be brought under control. We did our part and, as I mentioned this morning and quoted from the testimony of Mr. Ruckelshaus, who was the head of the EPA at the time in 1984—he said yes, there was an agreement, $2.4 billion for 10 years, and that is what we have here.

Now, we extended a little bit longer but in that extra period we go into building this so-called revolving fund which is for the States to cover the difference between $18 and $75 billion, which are the needs, and let the burden fall on the States at that time but they will have this revolving fund which will be extremely helpful.

So that is where we are. I feel badly. Obviously I do not think any Republican or Democrat, certainly Republicans do not like to go against the desires of an administration. There is a sense of reaching out and trying to reach an accommodation. And certainly no one likes to override vetoes of a President. He starts with plusses, he starts with our desire to cooperate, he starts with the realization that he has large responsibilities that sometimes we as individuals cannot fully recognize but at the same time we have responsibilities and we have the ability to see the problems of the Nation sometimes when he is not in specific sectors, such as this clean water area, where the President has a multitude of problems he has to pay attention to and perhaps cannot devote as much of his time to this matter as we have.

It is our belief that the wisest course of action is for the President to not only support this legislation but to applaud it and to say it is a good move, that, yes, you have made dramatic changes in 1981, you have scaled down the program and, furthermore, in this legislation you reach one of my, meaning the President's, views, that you are bringing the program to a close and that is something that I, meaning the President, have fought for, and we have provided that for him.

We bring the program to a close with the last appropriation—this is an authorization bill—but it is hopeful that the Appropriation Committee will follow us. The last amount provided under this bill is $600 million in 1994.

Although we mentioned it this morning, I am not sure everyone fully appreciates the changes that have been made in this Clean Water Act. In 1980 the total amount authorized was in the neighborhood of $5 billion, $5 billion in 1980 dollars, not in 1987 dollars. And we said all right, Mr. President, we will scale the program down to $2.4 billion.

That is a dramatic drop right there, cut in half, and we have not increased it a nickel since then, not a nickel for the construction grants program since 1981. And, clearly, the inflation factor has brought that down perhaps 30 percent, I am not certain, but the 1987 dollars no one will question are equal to 1981 dollars.

That is what has been accomplished, plus going to the revolving loan program.

So it is my plea, and this is a plea that I made to the White House when held. I hope that is not the case. Americans will not readily tolerate any government depriving one of our citizens of his freedom with out a trial.

I hope that South Africa will do the right thing in this situation. In the meantime, I have been encouraged by our own officials in South Africa to bring the situation to the attention of the world.

I hope our colleagues will join in urging that the government of South Africa use the power it has to gain freedom for Father Paulsen. Repeatedly in the past, we have seen what happens when Americans are used as barter for the objectives of other countries.

Mr. President, I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DOLE. Mr. President, I ask unanimous consent to proceed out of order.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS SUBMITTED

WATER QUALITY ACT

DOLE AMENDMENT NO. 1

Mr. DOLE proposed an amendment to the bill (H.R. 1) to amend the Federal Water Pollution Control Act to provide for the renewal of the quality of the Nation's waters, and for other purposes; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

TABLE OF CONTENTS

(a) SHORT TITLE.—This Act may be cited as the "Water Quality Act of 1987".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents; amendments to Federal Water Pollution Control Act; definition of Administrator.
Sec. 2. Limitation on payments.

TITLE I—AMENDMENTS TO TITLE I

Sec. 101. Authorizations of appropriations.
Sec. 102. Chesapeake Bay.
Sec. 103. Great Lakes.
Sec. 104. Research on effects of pollutants.

TITLE II—CONSTRUCTION GRANTS AMENDMENTS

Sec. 201. Eligibilities, CSOs, Dispute Resolution, Limitations.
Sec. 202. Federal share.
Sec. 203. Agreement on eligible costs.
Sec. 204. Design/build projects.
Sec. 205. Grant conditions; user charges on low-income residential users.
Sec. 206. Allotment formula.
Sec. 207. Rural set aside, Innovative and alternative projects, and Nonpoint source programs.
Sec. 208. Regional organization funding.
Sec. 209. Authorization for construction grants.
Sec. 210. Grants to States for making water pollution control loans.
Sec. 211. Ad valorem tax dedication.
Sec. 212 Improvement Projects.
Sec. 213. Chicago Tunnel and Reservoir Project.

TITLE III—STANDARDS AND ENFORCEMENTS

Sec. 301. Compliance dates.
Sec. 302. Modification for nonconventional pollutants.
Sec. 303. Discharges into marine waters.
Sec. 304. Filing deadline for treatment works modification.
Sec. 305. Innovative technology compliance deadlines for direct dischargers.
Sec. 306. Fundamentally different factors.
Sec. 307. Coal remining operations.
Sec. 308. Individual control strategies for toxic pollutants.
Sec. 309. Pretreatment standards.
Sec. 310. Inspection and entry.
Sec. 311. Marine sanitation devices.
Sec. 312. Criminal penalties.
Sec. 313. Civil penalties.
Sec. 314. Administrative penalties.
Sec. 315. Clean lakes.
Sec. 316. Management of nonpoint sources of pollution.
Sec. 317. National estuary program.
Sec. 318. Unconsolidated quaternary aquifer.

TITLE IV—PERMITS AND LICENSES

Sec. 401. Stormwater runoff from oil, gas, and mining operations.
Sec. 402. Additional pretreatment of conventional pollutants not required.
Sec. 403. Partial NPDES program.
Sec. 404. Anti-backsliding.
Sec. 405. Municipal and industrial stormwater discharges.
Sec. 406. Sewage sludge.
Sec. 407. Log transfer facilities.

TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. Audits.
Sec. 502. Commonwealth of the Northern Mariana Islands.
Sec. 503. Agricultural stormwater discharges.
Sec. 504. Protection of interests of United States in citizen suits.
Sec. 505. Judicial review and award of fees.
Sec. 506. Indian tribes.
Sec. 507. Definition of point source.
Sec. 508. Special provisions regarding certain dumping sites.
Sec. 509. Ocean discharge research project.
Sec. 510. Limitation on discharge of raw sewage by New York City.
Sec. 511. Study of de minimis discharges.
Sec. 512. Study of effectiveness of innovative and alternative processes and techniques.
Sec. 513. Study of testing procedures.
Sec. 514. Study of pretreatment of toxic pollutants.
Sec. 515. Studies of water pollution problems in aquifers.
Sec. 516. Great Lakes consumptive use study.
Sec. 517. Sulfide corrosion study.
Sec. 518. Study of rainfall induced infiltration into sewer systems.
Sec. 519. Dam water quality study.
Sec. 520. Study of pollution in Lake Pend Oreille, Idaho.
Sec. 521. San Diego, California.
Sec. 522. Oakwood Beach and Red Hook Projects, New York.
Sec. 523. Boston Harbor and Adjacent Waters.
Sec. 524. Wastewater Reclamation Demonstration.
Sec. 525. Des Moines, Iowa.
Sec. 526. Study of De Minimis Discharges.
Sec. 527. Amendment to the Water Resources Development Act.

(c) AMENDMENT OF FEDERAL WATER POLLUTION CONTROL ACT.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Water Pollution Control Act.

(d) DEFINITION.—For purposes of this Act, the term "Administrator" means the Administrator of the Environmental Protection Agency.

SEC. 2. LIMITATION ON PAYMENTS.

No payments may be made under this Act except to the extent provided in advance in appropriation Acts.

TITLE I—AMENDMENTS TO TITLE I

SEC. 101. AUTHORIZATIONS OF APPROPRIATIONS.

(a) RESEARCH AND INVESTIGATIONS.—Section 104(u) is amended—

(1) in clause (1) by striking out "and" after "1975,", after "1980,", and after "1981,", and by inserting after "1982," the following: "such sums as may be necessary for fiscal years 1983 through 1985, and not to exceed $22,770,000 per fiscal year for each of the fiscal years 1986 through 1990,";

(2) in clause (2) by striking out "and" after "1981," and by inserting after "1982," the following: "such sums as may be necessary for fiscal years 1983 through 1985, and $3,000,000 per fiscal year for each of the fiscal years 1986 through 1990,"; and

(3) in clause (3) by striking out "and" after "1981," and by inserting after "1982," the following: "such sums as may be necessary for fiscal years 1983 through 1985, and $1,500,000 per fiscal year for each of the fiscal years 1986 through 1990,".

(b) GRANTS FOR PROGRAM ADMINISTRATION.—Section 106(a)(2) is amended by inserting after "1982" the following: ", such sums as may be necessary for fiscal years 1983 through 1985, and $75,000,000 per fiscal year for each of the fiscal years 1986 through 1990".

(c) Training Grants and Scholarships.—Section 112(c) is amended by striking out "and" after "1981," and by inserting after "1982," the following: "such sums as may be necessary for fiscal years 1983 through 1985, and $7,000,000 per fiscal year for each of the fiscal years 1986 through 1990,".

(d) Areawide Planning.—Section 208(f)(3) is amended by striking out "and" after "1974," and after "1980," and by inserting after "1982" the following: ", and such sums as may be necessary for fiscal years 1983 through 1990".

(e) Rural Clean Water.—Section 208(j)(9) is amended by striking out "and" after "1981," and by inserting after "1982," the following: "and such sums as may be necessary for fiscal years 1983 through 1990,".

(f) Interagency Agreements.—Section 304(k)(3) is amended by inserting after "1983" the following: "and such sums as may be necessary for fiscal years 1984 through 1990".

(g) Clean Lakes.—Section 314(c)(2) is amended by striking out "and" after "1981," and by inserting after "1982" the following: ", such sums as may be necessary for fiscal years 1983 through 1985, and $30,000,000 per fiscal year for each of the fiscal years 1986 through 1990".

(h) General Authorization.—Section 517 is amended by striking out "and" after "1981," and by inserting after "1982" the following: ", such sums as may be necessary for fiscal years 1983 through 1985, and $135,000,000 per fiscal year for each of the fiscal years 1986 through 1990".

SEC. 102. CHESAPEAKE BAY.

Title I is amended by adding at the end the following new section:

"SEC. 117. CHESAPEAKE BAY.

"(a) Office.—The Administrator shall continue the Chesapeake Bay Program and shall establish and maintain in the Environmental Protection Agency an office, division, or branch of Chesapeake Bay Programs to—

"(1) collect and make available, through publications and other appropriate means, information pertaining to the environmental quality of the Chesapeake Bay (hereinafter in this subsection referred to as the "Bay");

"(2) coordinate Federal and State efforts to improve the water quality of the Bay;

"(3) determine the impact of sediment deposition in the Bay and identify the sources, rates, routes, and distribution patterns of such sediment deposition; and

"(4) determine the impact of natural and man-induced environmental changes on the living resources of the Bay and the relationships among such changes, with particular emphasis placed on the impact of pollutant loadings of nutrients, chlorine, acid precipitation, dissolved oxygen, and toxic pollutants, including organic chemicals and heavy metals, and with special attention given to the impact of such changes on striped bass.

"(b) Interstate Development Plan Grants.—

"(1) Authority.—The Administrator shall, at the request of the Governor of a State affected by the interstate management plan developed pursuant to the Chesapeake Bay Program (hereinafter in this section referred to as 'the plan'), make a grant for the purpose of implementing the management mechanisms contained in the plan if such State has, within 1 year after the date of the enactment of this section, approved and committed to implement all or substantially all aspects of the plan. Such grants shall be made subject to such terms and conditions as the Administrator considers appropriate.

"(2) Submission of proposal.—A State or combination of States may elect to avail itself of the benefits of this subsection by submitting to the Administrator a comprehensive proposal to implement management mechanisms contained in the plan which shall include (A) a description of proposed abatement actions which the State or combination of States commits to take within a specified time period to reduce pollution in the Bay and to meet applicable water quality standards, and (B) the estimated cost of the abatement actions proposed to be taken during the next fiscal year. If the Administrator finds that such proposal is consistent with the national policies set forth in section 101(a) of this Act and will contribute to the achievement of the national goals set forth in such section, the Administrator shall approve such proposal and shall finance the costs of implementing segments of such proposal.

"(3) Federal share.—Grants under this subsection shall not exceed 50 percent of the costs of implementing the management mechanisms contained in the plan in any fiscal year and shall be made on condition that non-Federal sources provide the remainder of the cost of implementing the management mechanisms contained in the plan during such fiscal year.

"(4) Administrative costs.—Administrative costs in the form of salaries, overhead, or indirect costs for services provided and charged against programs or projects supported by funds made available under this subsection shall not exceed in any one fiscal year 10 percent of the annual Federal grant made to a State under this subsection.

"(c) Reports.—Any State or combination of States that receives a grant under subsection (b) shall, within 18 months after the date of receipt of such grant and biennially thereafter, report to the Administrator on the progress made in implementing the interstate management plan developed pursuant to the Chesapeake Bay Program. The Administrator shall transmit each such report along with the comments of the Administrator on such report to Congress.

"(d) Authorization of Appropriations.—There are hereby authorized to be appropriated the following sums, to remain available until expended, to carry out the purposes of this section:

"(1) $3,000,000 per fiscal year for each of the fiscal years 1987, 1988, 1989, and 1990, to carry out subsection (a); and

"(2) $10,000,000 per fiscal year for each of the fiscal years 1987, 1988, 1989, and 1990, for grants to States under subsection (b).".

SEC. 103. GREAT LAKES.

Title I is amended by adding at the end the following new section:

"SEC. 118. GREAT LAKES.

"(a) Findings, Purpose, and Definitions.—

"(1) Findings.—The Congress finds that—

"(A) the Great Lakes are a valuable national resource, continuously serving the people of the United States and other nations as an important source of food, fresh water, recreation, beauty, and enjoyment;

"(B) the United States should seek to attain the goals embodied in the Great Lakes Water Quality Agreement of 1978 with particular emphasis on goals related to toxic pollutants; and

"(C) the Environmental Protection Agency should take the lead in the effort to meet those goals, working with other Federal agencies and State and local authorities.

"(2) Purpose.—It is the purpose of this section to achieve the goals embodied in the Great Lakes Water Quality Agreement of 1978 through improved organization and definition of mission on the part of the Agency, funding of State grants for pollution control in the Great Lakes area, and improved accountability for implementation of such agreement.

"(3) Definitions.—For purposes of this section, the term—

"(A) 'Agency' means the Environmental Protection Agency;

"(B) 'Great Lakes' means Lake Ontario, Lake Erie, Lake Huron (including Lake St. Clair), Lake Michigan, and Lake Superior, and the connecting channels (Saint Mary's River, Saint Clair River, Detroit River, Niagara River, and Saint Lawrence River to the Canadian Border);

"(C) 'Great Lakes System' means all the streams, rivers, lakes, and other bodies of water within the drainage basin of the Great Lakes;

"(D) 'Program Office' means the Great Lakes National Program Office established by this section; and

"(E) 'Research Office' means the Great Lakes Research Office established by subsection (d).

"(b) Great Lakes National Program Office.—The Great Lakes National Program Office (previously established by the Administrator) is hereby established within the Agency. The Program Office shall be headed by a Director who, by reason of management experience and technical expertise relating to the Great Lakes, is highly qualified to direct the development of programs and plans on a variety of Great Lakes issues. The Great Lakes National Program Office shall be located in a Great Lakes State.

"(c) Great Lakes Management.—

"(1) Functions.—The Program Office shall—

"(A) in cooperation with appropriate Federal, State, tribal, and international agencies, and in accordance with section 101(e) of this Act, develop and implement specific action plans to carry out the responsibilities of the United States under the Great Lakes Water Quality Agreement of 1978;

"(B) establish a Great Lakes system-wide surveillance network to monitor the water quality of the Great Lakes, with specific emphasis on the monitoring of toxic pollutants;

"(C) serve as the liaison with, and provide information to, the Canadian members of the International Joint Commission and the Canadian counterpart to the Agency;

"(D) coordinate actions of the Agency (including actions by headquarters and regional offices thereof) aimed at improving Great Lakes water quality; and

"(E) coordinate actions of the Agency with the actions of other Federal agencies and State and local authorities, so as to ensure the input of those agencies and authorities in developing water quality strategies and obtain the support of those agencies and authorities in achieving the objectives of such agreement.

"(2) 5-year plan and program.—The Program Office shall develop, in consultation with the States, a five-year plan and program for reducing the amount of nutrients introduced into the Great Lakes. Such program shall incorporate any management program for reducing nutrient runoff from nonpoint sources established under section 316 of this Act and shall include a program for monitoring nutrient runoff into, and ambient levels in, the Great Lakes.

"(3) 5-year study and demonstration projects.—The Program Office shall carry out a five-year study and demonstration projects relating to the control and removal of toxic pollutants in the Great Lakes, with emphasis on the removal of toxic pollutants from bottom sediments. In selecting locations for conducting demonstration projects under this paragraph, priority consideration shall be given to projects at the following locations: Saginaw Bay, Michigan; Sheboygan Harbor, Wisconsin; Grand Calumet River, Indiana; Ashtabula River, Ohio; and Buffalo River, New York.

"(4) Administrator's responsibility.—The Administrator shall ensure that the Program Office enters into agreements with the various organizational elements of the Agency involved in Great Lakes activities and the appropriate State agencies specifically delineating—

"(A) the duties and responsibilities of each such element in the Agency with respect to the Great Lakes;

"(B) the time periods for carrying out such duties and responsibilities; and

"(C) the resources to be committed to such duties and responsibilities.

"(5) Budget item.—The Administrator shall, in the Agency's annual budget submission to Congress, include a funding request for the Program Office as a separate budget line item.

"(6) Comprehensive report.—Within 90 days after the end of each fiscal year, the Administrator shall submit to Congress a comprehensive report which—

"(A) describes the achievements in the preceding fiscal year in implementing the Great Lakes Water Quality Agreement of 1978 and shows by categories (including judicial enforcement, research, State cooperative efforts, and general administration) the amounts expended on Great Lakes water quality initiatives in such preceding fiscal year;

"(B) describes the progress made in such preceding fiscal year in implementing the system of surveillance of the water quality in the Great Lakes system, including the monitoring of groundwater and sediment, with particular reference to toxic pollutants;

"(C) describes the long-term prospects for improving the condition of the Great Lakes; and

"(D) provides a comprehensive assessment of the planned efforts to be pursued in the succeeding fiscal year for implementing the Great Lakes Water Quality Agreement of 1978, which assessment shall—

"(i) show by categories (including judicial enforcement, research, State cooperative efforts, and general administration) the amount anticipated to be expended on Great Lakes water quality initiatives in the fiscal year to which the assessment relates; and

"(ii) include a report of current programs administered by other Federal agencies which make available resources to the Great Lakes water quality management efforts.

"(d) Great Lakes Research.—

"(1) Establishment of research office.—There is established within the National Oceanic and Atmospheric Administration the Great Lakes Research Office.

"(2) Identification of issues.—The Research Office shall identify issues relating to the Great Lakes resources on which research is needed. The Research Office shall submit a report to Congress on such issues before the end of each fiscal year which shall identify any changes in the Great Lakes system with respect to such issues.

"(3) Inventory.—The Research Office shall identify and inventory Federal, State, university, and tribal environmental research programs (and, to the extent feasible, those of private organizations and other nations) relating to the Great Lakes system, and shall update that inventory every four years.

"(4) Research exchange.—The Research Office shall establish a Great Lakes research exchange for the purpose of facilitating the rapid identification, acquisition, retrieval, dissemination, and use of information concerning research projects which are ongoing or completed and which affect the Great Lakes system.

"(5) Research program.—The Research Office shall develop, in cooperation with the Coordination Office, a comprehensive environmental research program and data base for the Great Lakes system. The data base shall include, but not be limited to, data relating to water quality, fisheries, and biota.

"(6) Monitoring.—The Research Office shall conduct, through the Great Lakes Environmental Research Laboratory, the National Sea Grant College program, other Federal laboratories, and the private sector, appropriate research and monitoring activities which address priority issues and current needs relating to the Great Lakes.

"(7) Location.—The Research Office shall be located in a Great Lakes State.

"(e) Research and Management Coordination.—

"(1) Joint plan.—Before October 1 of each year, the Program Office and the Research Office shall prepare a joint research plan for the fiscal year which begins in the following calendar year.

"(2) Contents of plan.—Each plan prepared under paragraph (1) shall—

"(A) identify all proposed research dedicated to activities conducted under the Great Lakes Water Quality Agreement of 1978;

"(B) include the Agency's assessment of priorities for research needed to fulfill the terms of such Agreement; and

"(C) identify all proposed research that may be used to develop a comprehensive environmental data base for the Great Lakes System and establish priorities for development of such data base.

"(f) Interagency Cooperation.—The head of each department, agency, or other instrumentality of the Federal Government which is engaged in, is concerned with, or has authority over programs relating to research, monitoring, and planning to maintain, enhance, preserve, or rehabilitate the environmental quality and natural resources of the Great Lakes, including the Chief of Engineers of the Army, the Chief of the Soil Conservation Service, the Commandant of the Coast Guard, the Director of the Fish and Wildlife Service, and the Administrator of the National Oceanic and Atmospheric Administration, shall submit an annual report to the Administrator with respect to the activities of that agency or office affecting compliance with the Great Lakes Water Quality Agreement of 1978.

"(g) Relationship to Existing Federal and State Laws and International Treaties:—Nothing in this section shall be construed to affect the jurisdiction, powers, or prerogatives of any department, agency, or officer of the Federal Government or of any State government, or of any tribe, nor any powers, jurisdiction, or prerogatives of any international body created by treaty with authority relating to the Great Lakes.

"(h) Authorizations of Great Lakes Appropriations.—There are authorized to be appropriated to the Administrator to carry out this section not to exceed $11,000,000 per fiscal year for the fiscal years 1987, 1988, 1989, 1990, and 1991. Of the amounts appropriated each fiscal year—

"(1) 40 percent shall be used by the Great Lakes National Program Office on demonstration projects on the feasibility of controlling and removing toxic pollutants;

"(2) 7 percent shall be used by the Great Lakes National Program Office for the program of nutrient monitoring; and

"(3) 30 percent shall be transferred to the National Oceanic and Atmospheric Administration for use by the Great Lakes Research Office.".

SEC. 104. RESEARCH ON EFFECTS OF POLLUTANTS.

In carrying out the provisions of section 104(a) of the Federal Water Pollution Control Act, the Administrator shall conduct research on the harmful effects on the health and welfare of persons caused by pollutants in water, in conjunction with the United States Fish and Wildlife Service, the National Oceanic and Atmospheric Administration, and other Federal, State, and interstate agencies carrying on such research. Such research shall include, and shall place special emphasis on, the effect that bioaccumulation of these pollutants in aquatic species has upon reducing the value of aquatic commercial and sport industries. Such research shall further study methods to reduce and remove these pollutants from the relevant affected aquatic species so as to restore and enhance these valuable resources.

TITLE II—CONSTRUCTION GRANTS AMENDMENTS

SEC. 201. ELIGIBILITIES, CSOs, DISPUTE RESOLUTION, LIMITATIONS.

(a) Section 201(g)(1) is amended by striking out the third sentence and inserting in lieu thereof: "Notwithstanding the preceding sentence, the Administrator is authorized to make grants to States for the provision of loans to municipalities or intermunicipal or interstate agencies for the construction of publicly owned treatment works, as provided under section 220. On and after October 1, 1987, grants under this section shall first be made for projects within the categories listed in the preceding sentence that are necessary to maintain progress, as determined by the Governor, to meet the enforceable deadlines, goals, and requirements of the Act.

(b) Section 201(n) is repealed and subsection 201(o) is redesignated 201(n).

(c) Section 201 is amended by adding at the end thereof the following new subsection:

"(o) Time Limit on Resolving Certain Disputes.—In any case in which a dispute arises with respect to the awarding of a contract for construction of treatment works by a grantee of funds under this title and a party to such dispute files an appeal with the Administrator under this title for resolution of such dispute, the Administrator shall make a final decision on such appeal within 90 days of the filing of such appeal.".

(d) Section 204(c) is amended by inserting "awarded a grant before October 1, 1990," immediately after "such facility and interceptors".

SEC. 202. FEDERAL SHARE.

(a) Section 202(a)(1) is amended by striking out the period at the end thereof and inserting in lieu thereof ", for any such grants made before October 1, 1990.".

(b) Projects Under Judicial Injunction.—Section 202(a)(1) is amended by adding at the end thereof the following: "Notwithstanding the first sentence of this paragraph, in the case of a project for which an application for a grant under this title has been made to the Administrator before October 1, 1984, and which project is under judicial injunction on such date prohibiting its construction, such project shall be eligible for grants at 75 percent of the cost of construction thereof.".

(d) Biodisc Equipment.—Section 202(a)(3) is amended by adding at the end thereof the following: "In addition, the Administrator is authorized to make a grant to fund all of the costs of the modification or replacement of biodisc equipment (rotating biological contactors) in any publicly owned treatment works if the Administrator finds that such equipment has failed to meet design performance specifications, unless such failure is attributable to negligence on the part of any person, and if such failure has significantly increased capital or operating and maintenance expenditures.".

(e) Innovative Process.—The activated bio-filter feature of the project for treatment works of the city of Little Falls, Minnesota, shall be deemed to be an innovative wastewater process and technique for purposes of section 202(a)(2) of the Federal Water Pollution Control Act and the amount of any grant under such Act for such feature shall be 85 percent of the cost thereof.

(f) Availability of Certain Funds for Non-Federal Share.—Notwithstanding any other provision of law, Federal assistance made available by the Farmers Home Administration to any political subdivision of a State may be used to provide the non-Federal share of the cost of any construction project carried out under section 201 of the Federal Water Pollution Control Act.

SEC. 203. AGREEMENT ON ELIGIBLE COSTS.

Section 203(a) is amended by inserting "(1)" after "(a)", by designating the last sentence as paragraph (3) and indenting such sentence as a paragraph, and by inserting before paragraph (3) as so designated the following:

"(2) Agreement on eligible costs.—

"(A) Limitation on modifications.—Before taking final action on any plans, specifications, and estimates submitted under this subsection after the 60th day following the date of the enactment of the Water Quality Act of 1987, the Administrator shall enter into a written agreement with the applicant which establishes and specifies which items of the proposed project are eligible for Federal payments under this section. The Administrator may not later modify such eligibility determinations unless they are found to have been made in violation of applicable Federal statutes and regulations.

"(B) Limitation on effect.—Eligibility determinations under this paragraph shall not preclude the Administrator from auditing a project pursuant to section 501 of this Act, or other authority, or from withholding or recovering Federal funds for costs which are found to be unreasonable, unsupported by adequate documentation, or otherwise unallowable under applicable Federal cost principles, or which are incurred on a project which fails to meet the design specifications or effluent limitations contained in the grant agreement and permit pursuant to section 402 of this Act for such project.".

SEC. 204. DESIGN/BUILD PROJECTS.

Section 203 is amended by adding at the end the following new subsection:

"(f) Design/Build Projects.—

"(1) Agreement.—Consistent with State law, an applicant who proposes to construct waste water treatment works may enter into an agreement with the Administrator under this subsection providing for the preparation of construction plans and specifications and the erection of such treatment works, in lieu of proceeding under the other provisions of this section.

"(2) Limitation on projects.—Agreements under this subsection shall be limited to projects under an approved facility plan which projects are—

"(A) treatment works that have an estimated total cost of $8,000,000 or less; and

"(B) any of the following types of waste water treatment systems: aerated lagoons, trickling filters, stabilization ponds, land application systems, sand filters, and subsurface disposal systems.

"(3) Required terms.—An agreement entered into under this subsection shall—

"(A) set forth an amount agreed to as the maximum Federal contribution to the project, based upon a competitively bid document of basic design data and applicable standard construction specifications and a determination of the federally eligible costs of the project at the applicable Federal share under section 202 of this Act;

"(B) set forth dates for the start and completion of construction of the treatment works by the applicant and a schedule of payments of the Federal contribution to the project;

"(C) contain assurances by the applicant that (i) engineering and management assistance will be provided to manage the project; (ii) the proposed treatment works will be an operable unit and will meet all the requirements of this title; and (iii) not later than 1 year after the date specified as the date of completion of construction of the treatment works, the treatment works will be operating so as to meet the requirements of any applicable permit for such treatment works under section 402 of this Act;

"(D) require the applicant to obtain a bond from the contractor in an amount determined necessary by the Administrator to protect the Federal interest in the project; and

"(E) contain such other terms and conditions as are necessary to assure compliance with this title (except as provided in paragraph (4) of this subsection).

"(4) Limitation on application.—Subsections (a), (b), and (c) of this section shall not apply to grants made pursuant to this subsection.

"(5) Reservation to assure compliance.—The Administrator shall reserve a portion of the grant to assure contract compliance until final project approval as defined by the Administrator. If the amount agreed to under paragraph (3)(A) exceeds the cost of designing and constructing the treatment works, the Administrator shall reallot the amount of the excess to the State in which such treatment works are located for the fiscal year in which such audit is completed.

"(6) LIMITATION ON OBLIGATIONS.—The Administrator shall not obligate more than 20 percent of the amount allotted to a State for a fiscal year under section 205 of this Act for grants pursuant to this subsection.

"(7) ALLOWANCE.—The Administrator shall determine an allowance for facilities planning for projects constructed under this subsection in accordance with section 201(l).

"(8) LIMITATION ON FEDERAL CONTRIBUTIONS.—In no event shall the Federal contribution for the cost of preparing construction plans and specifications and the building and erection of treatment works pursuant to this subsection exceed the amount agreed upon under paragraph (3).

"(9) RECOVERY ACTION.—In any case in which the recipient of a grant made pursuant to this subsection does not comply with the terms of the agreement entered into under paragraph (3), the Administrator is authorized to take such action as may be necessary to recover the amount of the Federal contribution to the project.

"(10) PREVENTION OF DOUBLE BENEFITS.—A recipient of a grant made pursuant to this subsection shall not be eligible for any other grants under this title for the same project.".

SEC. 205. GRANT CONDITIONS; USER CHARGES ON LOW-INCOME RESIDENTIAL USERS.

(a) INCLUSION OF PROJECT IN AREAWIDE PLAN.—Section 204(a)(1) is amended to read as follows:

"(1) that any required areawide waste treatment management plan under section 208 of this Act (A) is being implemented for such area and the proposed treatment works are included in such plan, or (B) is being developed for such area and reasonable progress is being made toward its implementation and the proposed treatment works will be included in such plan;".

(b) CONTINUING PLANNING PROCESS.—Section 204(a)(2) is amended to read as follows:

"(2) that (A) the State in which the project is to be located (i) is implementing any required plan under section 303(e) of this Act and the proposed treatment works are in conformity with such plan, or (ii) is developing such a plan and the proposed treatment works will be in conformity with such plan, and (B) such State is in compliance with section 305(b) of this Act;".

(c) USER CHARGES ON LOW-INCOME RESIDENTIAL USERS.—Section 204(b)(1) is amended by adding at the end thereof the following: "A system of user charges which imposes a lower charge for low-income residential users (as defined by the Administrator) shall be deemed to be a user charge system meeting the requirements of clause (A) of this paragraph if the Administrator determines that such system was adopted after public notice and hearing.".

(d) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act, except that the amendments made by subsections (a) and (b) shall take effect on the last day of the two-year period beginning on such date of enactment.

SEC. 206. ALLOTMENT FORMULA.

(a) FORMULA.—

(1) EXTENSION OF EXISTING FORMULA FOR 1986.—Section 205(c)(2) is amended by striking out "and September 30, 1985," and inserting in lieu thereof "September 30, 1985, and September 30, 1986,".

(2) FISCAL YEARS 1987-1990.—Section 205(c) is amended by adding at the end the following new paragraph:

"(3) FISCAL YEARS 1987-1990.—Sums authorized to be appropriated pursuant to section 207 for the fiscal years 1987, 1988, 1989, and 1990 shall be allotted for each such year by the Administrator not later than the 10th day which begins after the date of the enactment of this paragraph. Sums authorized for such fiscal years shall be allotted in accordance with the following table:

"States:	
Alabama	.011309
Alaska	.006053
Arizona	.006831
Arkansas	.006616
California	.072333
Colorado	.008090
Connecticut	.012390
Delaware	.004965
District of Columbia	.004965
Florida	.034139
Georgia	.017100
Hawaii	.007833
Idaho	.004965
Illinois	.045741
Indiana	.024374
Iowa	.013688
Kansas	.009129
Kentucky	.012872
Louisiana	.011118
Maine	.007829
Maryland	.024461
Massachusetts	.034338
Michigan	.043487
Minnesota	.018589
Mississippi	.009112
Missouri	.028037
Montana	.004965
Nebraska	.005173
Nevada	.004965
New Hampshire	.010107
New Jersey	.041329
New Mexico	.004965
New York	.111632
North Carolina	.018253
North Dakota	.004965
Ohio	.056936
Oklahoma	.008171
Oregon	.011425
Pennsylvania	.040062
Rhode Island	.006791
South Carolina	.010361
South Dakota	.004965
Tennessee	.014692
Texas	.046226
Utah	.005329
Vermont	.004965
Virginia	.020698
Washington	.017588
West Virginia	.015766
Wisconsin	.027342
Wyoming	.004965
American Samoa	.000908
Guam	.000657
Northern Marianas	.000422
Puerto Rico	.013191
Pacific Trust Territories	.001295
Virgin Islands	.000527".

(b) COSTS OF ADMINISTRATION.—Section 205(g)(1) is amended by striking out "October 1, 1985" and inserting in lieu thereof "October 1, 1994".

(c) CONTROL OF POLLUTANTS FROM STORM SEWERS.—Section 211(e) is amended by striking out "1985," and inserting in lieu thereof "1990,".

SEC. 207. RURAL SET ASIDE, INNOVATIVE AND ALTERNATIVE PROJECTS, AND NONPOINT SOURCE PROGRAMS.

(a) Section 205(h) is amended by inserting after "October 1, 1978" the following: "and ending before October 1, 1987".

(b) Section 205(i) is amended by inserting after "beginning after September 30, 1981" the following: "and ending before October 1, 1987".

(c) Section 205 is amended by adding at the end thereof the following:

"(1) The Administrator is authorized to reserve for any fiscal year beginning on or after October 1, 1987 and ending before October 1, 1991, at the request of the Governor, a portion of the sum allotted and available for obligation to each State under this section, not to exceed 3.50 per centum for the fiscal year ending September 30, 1988; 5.32 per centum for the fiscal year ending September 30, 1989; 6.25 per centum for the fiscal year ending September 30, 1990; and 10.83 per centum for the fiscal year ending September 30, 1991. Sums so reserved shall be available for making grants to the States for nonpoint source management programs and groundwater quality protection activities under section 319 of this Act. Sums so reserved shall be available for making such grants for the same period as sums are available from State allotments under subsection (d) of this section, and any such grant shall be available for obligation only during such period. Any grant made from sums reserved under this subsection which has not been obligated by the end of the period for which available shall be added to the amount last allotted to such State under this section and shall be immediately available for obligation in the same manner and to the same extent as such last allotment.".

SEC. 208. REGIONAL ORGANIZATION FUNDING.

Section 205(j)(3) is amended by adding at the end thereof the following: "In giving such priority, the State shall allocate at least 40 percent of the amount granted to such State for a fiscal year under paragraph (2) of this subsection to regional public comprehensive planning organizations in such State and appropriate interstate organizations for the development and implementation of the plan described in this paragraph. In any fiscal year for which the Governor, in consultation with such organizations and with the approval of the Administrator, determines that allocation of at least 40 percent of such amount to such organizations will not result in significant participation by such organizations in water quality management planning and not significantly assist in development and implementation of the plan described in this paragraph and achieving the goals of this Act, the allocation to such organization may be less than 40 percent of such amount.".

SEC. 209. AUTHORIZATIONS FOR CONSTRUCTION GRANTS.

Section 207 is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "; and for the fiscal year ending September 30, 1986, not to exceed $1,800,000,000; for the fiscal year ending September 30, 1987 and for the fiscal year ending September 30, 1988, not to exceed $2,000,000,000; for the fiscal year ending September 30, 1989, not to exceed $1,900,000,000; for the fiscal year ending September 30, 1990, not to exceed $1,600,000,000; for the fiscal year ending September 30, 1991, not to exceed $1,200,000,000; for the fiscal year ending September 30, 1992, not to exceed $1,000,000,000; and for the fiscal year ending September 30, 1993, not to exceed $500,000,000."

SEC. 210. GRANTS TO STATES FOR MAKING WATER POLLUTION CONTROL LOANS.

Title II is amended by adding at the end thereof the following new sections:

"SEC. 220. GRANTS TO STATES FOR MAKING WATER POLLUTION CONTROL LOANS.

"(a) General Authority.—Subject to the provisions of this title, the Administrator may make grants under this section to each State from the sums allotted to such State under section 205, for the purpose of (1) providing loans for construction of treatment works (as defined in section 212 of this Act) which are publicly owned, (2) implementing a management program under section 319, and (3) developing and implementing a conservation and management plan under section 320.

"(b) Schedule of Grant Payments.—The Administrator and each State shall jointly establish a schedule of payments under which the Administrator will pay to the State the amount of each grant to be made to the State under this section. Such schedule shall be based on the State's intended use plan under section 223(c). Such schedule shall provide for payments no more frequent than once per quarter year, in amounts and over periods that result in an outlay rate that approximates the rate for payments made under section 201(g)(1) grants, as determined by the Administrator. The average outlay rate for State grant payments under this section shall not exceed the average outlay rate for section 201(g)(1) grant payments.

"(c) Grant Agreements.—

"(1) General rule.—To receive a grant with funds made available under this section, a State shall enter into an agreement with the Administrator.

"(2) Specific requirements.—Any agreement entered into by the Administrator under this section shall include, but not be limited to, the provisions listed below, and, in addition, such agreement may be entered into only after the State has established to the satisfaction of the Administrator that—

"(A) the State will accept grant payments with funds to be made available under this section in accordance with a payment schedule established jointly by the Administrator and the State under subsection (b);

"(B) the State will make available from State moneys an amount equal to at least 20 percent of each grant payment made under this section on or before the date on which each such payment will be made to the State;

"(C) the State will enter into binding commitments to provide assistance in accordance with the requirements of this section in an amount equal to 120 percent of the amount of each such grant payment within 1 year after the receipt of such grant payment;

"(D) all funds resulting from grants under this section, i.e. grant funds, matching funds, and loan repayment funds, will be expended in an expeditious and timely manner;

"(E) all such funds resulting from grants under this section will first be used to assure maintenance of progress, as determined by the Governor of the State, toward compliance with enforceable deadlines, goals, and requirements of this Act, including the municipal compliance deadline, in accordance with section 201(g)(1);

"(F) treatment works eligible under sections 201(g)(1) and 221(c) which will be constructed in whole or in part before fiscal year 1995 with funds from grants under this section will meet the requirements of sections 201(b), 201(g)(1), 201(g)(2), 201(g)(3), 201(g)(5), 201(g)(6), 201(n), 204(a)(1), 204(a)(2), 204(b)(1), 204(d)(2), 211, 218, and 511(c)(1) in the same manner as treatment works constructed with assistance under section 201(g)(1) other than by loans;

"(G) in addition to complying with the requirements of this title, the State will commit or expend each grant payment which it will receive under this title in accordance with laws and procedures applicable to the commitment or expenditure of revenues of the State;

"(H) in carrying out the requirements of section 223, the State will use accounting, audit, and fiscal procedures conforming to generally accepted government accounting standards;

"(I) the State will require as a condition of making loans from grants under this section that the recipients of such assistance will maintain project accounts in accordance with generally accepted government accounting standards; and

"(J) the State will make annual reports to the Administrator on the actual use of funds in accordance with section 223 of this title.

"(d) Applicability of Title II Provisions.—Except to the extent explicitly provided in this section and sections 221 and 223, other provisions of title II shall not apply to grants made under this section.".

"SEC. 221. WATER POLLUTION CONTROL LOANS.

"(a) Requirements for Obligation of Grant Funds.—Before a State may receive a grant under section 220 with funds made available under this title, the State shall first certify that it will comply with the requirements of this section.

"(b) Administration.—Grant funds received under section 220 shall be administered by the State to satisfy the requirements and objectives of this Act.

"(c) Projects Eligible for Assistance.—The Administrator is authorized to make grants under section 220 to States (1) for the provision of loans to municipalities or intermunicipal or interstate agencies for the construction of publicly owned treatment works for the eligible costs defined in 201(g)(1) and once such deadlines, goals and requirements have been addressed, loans may then be made for any projects within the definition of section 212 of this Act, (2) for the implementation of a management program established under section 319, and (3) for development and implementation of a conservation and management plan under section 320. The State shall make repayments from loans available in perpetuity for providing such financial assistance.

"(d) Types of Assistance.—A water pollution control grant to a State under this section may be used only—

"(1) to make loans, on the condition that—

"(A) such loans are made at or below market interest rates, including interest free loans, at terms not to exceed 20 years;

"(B) annual principal and interest payments will commence not later than 1 year after completion of any project and all loans will be fully amortized not later than 20 years after project completion;

"(C) the recipient of a loan will establish a dedicated source of revenue for repayment of loans;

"(D) the State will be credited with all payments of principal and interest on all loans; and

"(E) the State ensures that the total amount loaned from any fiscal year authorization shall not exceed, in the aggregate, the total amount that the projects funded would otherwise have received from Federal grants under section 201(g)(1).

"(2) to buy or refinance the debt obligation of municipalities and intermunicipal and interstate agencies within the State at or below market rates, where such debt obligations were incurred after March 1985;

"(3) as a source of revenue or security for the payment of principal or interest on revenue or general obligation bonds insured by the State if the proceeds of the sale of such bonds will be used to make loans.

"(e) Limitation To Prevent Double Benefits.—If a State makes, from its grant under section 220, a loan which will finance the cost of facility planning and the preparation of plans, specifications, and estimates for construction of publicly owned treatment works, the State shall ensure that if the recipient of such loan receives a grant under section 201(g) for construction of such treatment works and an allowance under section 201(l)(1) for non-Federal funds expended for such planning and preparation, such recipient will promptly repay such loan to the extent of such allowance.

"(f) Consistency With Planning Requirements.—A State may provide financial assistance from funds resulting from its grant under section 220 only with respect to a project which is consistent with plans, if any, developed under sections 205(j), 208, 303(e), 319, and 320 of this Act.

"(g) Priority List Requirement.—The State may provide financial assistance from funds resulting from its grants under section 220 only for projects on the State's priority list under section 216 of this Act. Such assistance may be provided regardless of the rank of such projects on such list.

"SEC. 222. CORRECTIVE ACTION.

"(a) Notification of Noncompliance.—If the Administrator determines that a State has not complied with its agreement with the Administrator under section 220 or any other requirement of this title, the Administrator shall notify the State of such noncompliance and the necessary corrective action.

"(b) Withholding of Payments.—If a State does not take corrective action within 60 days after the date a State receives notification of such action under subsection (a), the Administrator shall withhold additional payments to the State until the Administrator is satisfied that the State has taken the necessary corrective action.

"(c) Reallotment of Withheld Payments.—If the Administrator is not satisfied that adequate corrective actions have been taken by the State within 12 months after the State is notified of such actions under subsection (a), the payments withheld from the State by the Administrator under subsection (b) shall be made available for reallotment in accordance with the formula for allotment of funds under this title in effect at the time of such reallotment.

"SEC. 223. AUDITS, REPORTS, AND FISCAL CONTROLS; INTENDED USE PLAN.

"(a) Fiscal Control and Auditing Procedures.—Each State accepting a grant under section 220 shall establish fiscal controls and accounting procedures sufficient to assure proper accounting during appropriate accounting periods for such grants:

"(1) payments received;

"(2) disbursements made; and

"(3) balances at the beginning and end of the accounting period.

"(b) **Annual Federal Audits.**—The Administrator shall, at least on an annual basis, conduct or require each State to have independently conducted reviews and audits of grant funds received under section 220 as may be deemed necessary or appropriate by the Administrator to carry out the objectives of this section. Audits of the use of funds shall be conducted in accordance with the auditing procedures of the General Accounting Office, including chapter 75 of title 31, United States Code.

"(c) **Intended Use Plan.**—After providing for public comment and review for each fiscal year that the State expends grant funds under section 220, the State shall prepare a plan identifying the intended use of the grant amounts available. Such intended use plan shall include, but not be limited to—

"(1) a list of those projects for construction of publicly owned treatment works on the State's priority list developed pursuant to section 216 of this Act and a list of activities eligible for assistance under sections 319 and 320 of this Act;

"(2) a description of the State's short- and long-term water pollution control goals and objectives;

"(3) information on the activities to be supported, including a description of project categories, discharge requirements under titles III and IV of this Act, terms of financial assistance, and communities served;

"(4) assurances and specific proposals for meeting the requirements of paragraphs (C), (D), (E), and (F) of section 220(c)(2) of this title; and

"(5) the criteria and method established for the distribution of funds.

"(d) **Annual Report.**—For each fiscal year that the State expends grant funds under section 220, the State shall provide an annual report to the Administrator describing how the State has met the goals and objectives for the previous fiscal year as identified in the plan prepared for the previous fiscal year pursuant to subsection (c), including identification of loan recipients, loan amounts, and loan terms.

"(e) **Annual Federal Oversight Review.**—The Administrator shall conduct an annual oversight review of each State plan prepared under subsection (c), each State report prepared under subsection (d), and other such materials as are considered necessary and appropriate in carrying out the purposes of this title. After reasonable notice by the Administrator to the State or the recipient of a loan, the State or loan recipient shall make available to the Administrator such records as the Administrator reasonably requires to review and determine compliance with this title.".

SEC. 211. AD VALOREM TAX DEDICATION.

For the purposes of complying with section 204(b)(1) of the Federal Water Pollution Control Act, the ad valorem tax user charge systems of the town of Hampton and the city of Nashua, New Hampshire, shall be deemed to have been dedicated as of December 27, 1977. The Administrator shall review such ad valorem tax user charge systems for compliance with the remaining requirements of such section and related regulations of the Environmental Protection Agency.

SECTION 212. IMPROVEMENT PROJECTS.

(a) **Avalon, California.**—The Administrator shall make a grant of $3,000,000 from funds allotted under section 205 of the Federal Water Pollution Control Act to the State of California for fiscal year 1987 to the city of Avalon, California, for improvements to the publicly owned treatment works of such city.

(b) **Walker and Smithfield Townships, Pennsylvania.**—Out of funds available for grants in the State of Pennsylvania under the third sentence of section 201(g)(1) of the Federal Water Pollution Control Act in fiscal year 1987, the Administrator shall make grants—

(1) to Walker Township, Pennsylvania, for developing a collector system and connecting its wastewater treatment system into the Huntington Borough, Pennsylvania, sewage treatment plant, and

(2) to Smithfield Township, Pennsylvania, for rehabilitating and extending its collector system.

(c) **Taylor Mill, Kentucky.**—Notwithstanding section 201(g)(1) of the Federal Water Pollution Control Act or any other provision of law, the Administrator shall make a grant of $250,000 from funds allotted under section 205 of such Act to the State of Kentucky for fiscal year 1986 to the city of Taylor Mill, Kentucky, for the repair and reconstruction, as necessary, of the publicly owned treatment works of such city.

(d) **Nevada County, California.**—Out of funds available for grants in the State of California under the third sentence of section 201(g)(1) of the Federal Water Pollution Control Act in fiscal year 1987, the Administrator shall make a grant for the construction of a collection system serving the Glenshire/Devonshire area of Nevada County, California, to deliver waste to the Tahoe-Truckee Sanitary District's regional wastewater treatment facility.

(e) **Treatment Works for Wanaque, New Jersey.**—In fiscal year 1987 and succeeding fiscal years, the Administrator shall make grants to the Wanaque Valley Regional Sewerage Authority, New Jersey, from funds allotted under section 205 of the Federal Water Pollution Control Act to the State of New Jersey for such fiscal year, for the construction of treatment works with a total treatment capacity of 1,050,000 gallons per day (including a treatment module with a treatment capacity of 350,000 gallons per day). Notwithstanding section 202 of such Act, the Federal share of the cost of construction of such treatment works shall be 75 percent.

(f) **Treatment Works for Lena, Illinois.**—The Administrator shall make grants to the village of Lena, Illinois, from funds allotted under section 205 of the Federal Water Pollution Control Act to the State of Illinois for fiscal years beginning after September 30, 1986, for the construction of a replacement moving bed filter press for the treatment works of such village. Notwithstanding section 202 of the Federal Water Pollution Control Act, the Federal share of the cost of construction of such project shall be 75 percent.

(g) **Priority for Court-Ordered and Other Projects.**—The State of Pennsylvania, from funds allotted to it under section 205 of the Federal Water Pollution Control Act, shall give priority for construction of—

(1) the Wyoming Valley Sanitary Authority Secondary Treatment project mandated under Federal court order, regardless of the

date of start of construction made pursuant to the court order, and

(2) a project for wastewater treatment for Altoona, Pennsylvania.

SECTION 213. CHICAGO TUNNEL AND RESERVOIR PROJECT.

The Chicago tunnel and reservoir project may receive grants under the last sentence of section 201(g)(1) of the Federal Water Pollution Control Act without regard to the limitation contained in such sentence if the Administrator determines that such project meets the cost-effectiveness requirements of section 217 and 218 of such Act without any redesign or reconstruction and if the Governor of the affected State demonstrates to the satisfaction of the Administrator the water quality benefits of such project.

TITLE III—STANDARDS AND ENFORCEMENTS

SEC. 301. COMPLIANCE DATES.

(a) PRIORITY TOXIC POLLUTANTS.—Section 301(b)(2)(C) is amended by striking out "not later than July 1, 1984," and inserting after "of this paragraph" the following: "as expeditiously as practicable but in no case later than three years after the date such limitations are promulgated under section 304(b), and in no case later than March 31, 1989".

(b) OTHER TOXIC POLLUTANTS.—Section 301(b)(2)(D) is amended by striking out "not later than three years after the date such limitations are established" and inserting in lieu thereof "as expeditiously as practicable, but in no case later than three years after the date such limitations are promulgated under section 304(b), and in no case later than March 31, 1989".

(c) CONVENTIONAL POLLUTANTS.—Section 301(b)(2)(E) is amended by striking "not later than July 1, 1984," and inserting in lieu thereof "as expeditiously as practicable but in no case later than three years after the date such limitations are promulgated under section 304(b), and in no case later than March 31, 1989, compliance with".

(d) OTHER POLLUTANTS.—Section 301(b)(2)(F) is amended by striking "not" after "subparagraph (A) of this paragraph" and inserting in lieu thereof "as expeditiously as practicable but in no case", and by striking "or not later than July 1, 1984," and all that follows through the end of the sentence and inserting in lieu thereof "and in no case later than March 31, 1989.".

(e) STRICTER BPT.—Section 301(b) is amended by adding at the end the following new paragraph:

"(3)(A) for effluent limitations under paragraph (1)(A)(i) of this subsection promulgated after January 1, 1982, and requiring a level of control substantially greater or based on fundamentally different control technology than under permits for an industrial category issued before such date, compliance as expeditiously as practicable but in no case later than three years after the date such limitations are promulgated under section 304(b), and in no case later than March 31, 1989; and

"(B) for any effluent limitation in accordance with paragraph (1)(A)(i), (2)(A)(i), or (2)(E) of this subsection established only on the basis of section 402(a)(1) in a permit issued after enactment of the Water Quality Act of 1987, compliance as expeditiously as practicable but in no case later than three years after the date such limitations are established, and in no case later than March 31, 1989.".

(f) DEADLINES FOR REGULATIONS FOR CERTAIN TOXIC POLLUTANTS.—The Administrator shall promulgate final regulations establishing effluent limitations in accordance with sections 301(b)(2)(A) and 307(b)(1) of the Federal Water Pollution Control Act for all toxic pollutants referred to in table 1 of Committee Print Numbered 95-30 of the Committee on Public Works and Transportation of the House of Representatives which are discharged from the categories of point sources in accordance with the following table:

Category	Date by which the final regulation shall be promulgated
Organic chemicals and plastics and synthetic fibers.	December 31, 1986.
Pesticides	December 31, 1986.

SEC. 302. MODIFICATION FOR NONCONVENTIONAL POLLUTANTS.

(a) LISTING OF POLLUTANTS.—Section 301(g) is amended by redesignating paragraph (2) (and any references thereto) as paragraph (3) and by striking out all that precedes subparagraph (A) of paragraph (1) and inserting in lieu thereof the following:

"(g) MODIFICATIONS FOR CERTAIN NONCONVENTIONAL POLLUTANTS.—

"(1) GENERAL AUTHORITY.—The Administrator, with the concurrence of the State, may modify the requirements of subsection (b)(2)(A) of this section with respect to the discharge from any point source of ammonia, chlorine, color, iron, and total phenols (4AAP) (when determined by the Administrator to be a pollutant covered by subsection (b)(2)(F)) and any other pollutant which the Administrator lists under paragraph (4) of this subsection.

"(2) REQUIREMENTS FOR GRANTING MODIFICATIONS.—A modification under this subsection shall be granted only upon a showing by the owner or operator of a point source satisfactory to the Administrator that—".

(b) PROCEDURE FOR LISTING ADDITIONAL POLLUTANTS; REMOVAL.—Section 301(g) is further amended by adding at the end thereof the following new paragraphs:

"(4) PROCEDURES FOR LISTING ADDITIONAL POLLUTANTS.—

"(A) GENERAL AUTHORITY.—Upon petition of any person, the Administrator may add any pollutant to the list of pollutants for which modification under this section is authorized (except for pollutants identified pursuant to section 304(a)(4) of this Act, toxic pollutants subject to section 307(a) of this Act, and the thermal component of discharges) in accordance with the provisions of this paragraph.

"(B) REQUIREMENTS FOR LISTING.—

"(i) SUFFICIENT INFORMATION.—The person petitioning for listing of an additional pollutant under this subsection shall submit to the Administrator sufficient information to make the determinations required by this subparagraph.

"(ii) TOXIC CRITERIA DETERMINATION.—The Administrator shall determine whether or not the pollutant meets the criteria for listing as a toxic pollutant under section 307(a) of this Act.

"(iii) LISTING AS TOXIC POLLUTANT.—If the Administrator determines that the pollutant meets the criteria for listing as a toxic pollutant under section 307(a), the Administrator shall list the pollutant as a toxic pollutant under section 307(a).

"(iv) NONCONVENTIONAL CRITERIA DETERMI-

NATION.—If the Administrator determines that the pollutant does not meet the criteria for listing as a toxic pollutant under such section and determines that adequate test methods and sufficient data are available to make the determinations required by paragraph (2) of this subsection with respect to the pollutant, the Administrator shall add the pollutant to the list of pollutants specified in paragraph (1) of this subsection for which modifications are authorized under this subsection.

"(C) Requirements for filing of petitions.—A petition for listing of a pollutant under this paragraph—

"(i) must be filed not later than 270 days after the date of promulgation of an applicable effluent guideline under section 304;

"(ii) may be filed before promulgation of such guideline; and

"(iii) may be filed with an application for a modification under paragraph (1) with respect to the discharge of such pollutant.

"(D) Deadline for approval of petition.—A decision to add a pollutant to the list of pollutants for which modifications under this subsection are authorized must be made within 270 days after the date of promulgation of an applicable effluent guideline under section 304.

"(E) Burden of proof.—The burden of proof for making the determinations under subparagraph (B) shall be on the petitioner.

"(5) Removal of pollutants.—The Administrator may remove any pollutant from the list of pollutants for which modifications are authorized under this subsection if the Administrator determines that adequate test methods and sufficient data are no longer available for determining whether or not modifications may be granted with respect to such pollutant under paragraph (2) of this subsection.".

(c) Deadline for Approval of Modifications.—Section 301(j) is amended—

(1) in paragraph (2) by striking out "Any" and inserting in lieu thereof "Subject to paragraph (3) of this section, any"; and

(2) by adding at the end thereof the following new paragraphs:

"(3) Compliance requirements under subsection (g).—

"(A) Effect of filing.—An application for a modification under subsection (g) and a petition for listing of a pollutant as a pollutant for which modifications are authorized under such subsection shall not stay the requirement that the person seeking such modification or listing comply with effluent limitations under this Act for all pollutants not the subject of such application or petition.

"(B) Effect of disapproval.—Disapproval of an application for a modification under subsection (g) shall not stay the requirement that the person seeking such modification comply with all applicable effluent limitations under this Act.

"(4) Deadline for subsection (g) decision.—An application for a modification with respect to a pollutant filed under subsection (g) must be approved or disapproved not later than 365 days after the date of such filing; except that in any case in which a petition for listing such pollutant as a pollutant for which modifications are authorized under such subsection is approved, such application must be approved or disapproved not later than 365 days after the date of approval of such petition.".

(d) Conforming Amendments.—(1) Paragraph (3) of section 301(g), as redesignated by subsection (a) of this section, is amended by inserting "Limitation on authority to apply for subsection (c) modification.—" before "If an owner" and by aligning such paragraph with paragraph (4) of such section, as added by such subsection (c).

(2) Paragraph (2) of section 301(g) (as designated by subsection (a) of this section) is amended by realigning subparagraphs (A), (B), and (C) with subparagraph (A) of paragraph (4), as added by subsection (b) of this section.

(e) Application.—

(1) General rule.—Except as provided in paragraph (2), the amendments made by this section shall apply to all requests for modifications under section 301(g) of the Federal Water Pollution Control Act pending on the date of the enactment of this Act and shall not have the effect of extending the deadline established in section 301(j)(1)(B) of such Act.

(2) Exception.—The amendments made by this section shall not affect any application for a modification with respect to the discharge of ammonia, chlorine, color, iron, or total phenols (4AAP) under section 301(g) of the Federal Water Pollution Control Act pending on the date of the enactment of this Act; except that the Administrator must approve or disapprove such application not later than 365 days after the date of such enactment.

SEC. 303. DISCHARGES INTO MARINE WATERS.

(a) Consideration of Other Sources of Pollutants.—Section 301(h)(2) is amended by striking out "such modified requirements will not interfere" and inserting in lieu thereof the following: "the discharge of pollutants in accordance with such modified requirements will not interfere, alone or in combination with pollutants from other sources,".

(b) Limitation on Scope of Monitoring.—

(1) General rule.—Section 301(h)(3) is amended by inserting before the semicolon at the end thereof the following: ", and the scope of such monitoring is limited to include only those scientific investigations which are necessary to study the effects of the proposed discharge".

(2) Limitation on applicability.—The amendment made by subsection (b) shall only apply to modifications and renewals of modifications which are tentatively or finally approved after the date of the enactment of this Act.

(c) Urban Area Pretreatment Program.—Section 301(h) is amended by redesignating paragraphs (6) and (7), and any references thereto, as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) in the case of any treatment works serving a population of 50,000 or more, with respect to any toxic pollutant introduced into such works by an industrial discharger for which pollutant there is no applicable pretreatment requirement in effect, sources introducing waste into such works are in compliance with all applicable pretreatment requirements, the applicant will enforce such requirements, and the applicant has in effect a pretreatment program which, in combination with the treatment of discharges from such works, removes the same amount of such pollutant as would be removed if such works were to apply secondary treatment to discharges and if such works had no pretreatment program with respect to such pollutant;".

(d) Primary Treatment for Effluent.—

(1) General rule.—Section 301(h) is

amended by striking out the period at the end of paragraph (8) (as redesignated by subsection (c) of this section) and inserting in lieu thereof a semicolon and by inserting after such paragraph (8) the following new paragraph:

"(9) the applicant at the time such modification becomes effective will be discharging effluent which has received at least primary or equivalent treatment and which meets the criteria established under section 304(a)(1) of this Act after initial mixing in the waters surrounding or adjacent to the point at which such effluent is discharged.".

(2) Primary or equivalent treatment defined.—Such section is further amended by inserting after the second sentence the following new sentence: "For the purposes of paragraph (9), 'primary or equivalent treatment' means treatment by screening, sedimentation, and skimming adequate to remove at least 30 percent of the biological oxygen demanding material and of the suspended solids in the treatment works influent, and disinfection, where appropriate.".

(e) Limitations on Issuance of Permits.—Section 301(h) is further amended by adding at the end thereof the following new sentences: "In order for a permit to be issued under this subsection for the discharge of a pollutant into marine waters, such marine waters must exhibit characteristics assuring that water providing dilution does not contain significant amounts of previously discharged effluent from such treatment works. No permit issued under this subsection shall authorize the discharge of any pollutant into saline estuarine waters which at the time of application do not support a balanced indigenous population of shellfish, fish and wildlife, or allow recreation in and on the waters or which exhibit ambient water quality below applicable water quality standards adopted for the protection of public water supplies, shellfish, fish and wildlife or recreational activities or such other standards necessary to assure support and protection of such uses. The prohibition contained in the preceding sentence shall apply without regard to the presence or absence of a causal relationship between such characteristics and the applicant's current or proposed discharge. Notwithstanding any other provisions of this subsection, no permit may be issued under this subsection for discharge of a pollutant into the New York Bight Apex consisting of the ocean waters of the Atlantic Ocean westward of 73 degrees 30 minutes west longitude and northward of 40 degrees 10 minutes north latitude.".

(f) Application for Ocean Discharge Modification.—Section 301(j)(1)(A) is amended by inserting before the semicolon at the end thereof the following: ", except that a publicly owned treatment works which prior to December 31, 1982, had a contractual arrangement to use a portion of the capacity of an ocean outfall operated by another publicly owned treatment works which has applied for or received modification under subsection (h), may apply for a modification of subsection (h) in its own right not later than 30 days after the date of the enactment of the Water Quality Act of 1987".

(g) Grandfather of Certain Applicants.—The amendments made by subsections (a), (c), (d), and (e) of this section shall not apply to an application for a permit under section 301(h) of the Federal Water Pollution Control Act which has been tentatively or finally approved by the Administrator before the date of the enactment of this Act; except that such amendments shall apply to all renewals of such permits after such date of enactment.

SEC. 304. FILING DEADLINE FOR TREATMENT WORKS MODIFICATION.

(a) Extension.—The second sentence of section 301(i)(1) is amended by striking out "of this subsection." and inserting in lieu thereof "of the Water Quality Act of 1987.".

(b) Applicability.—The amendment made by subsection (a) shall not apply to those treatment works which are subject to a compliance schedule established before the date of the enactment of this Act by a court order or a final administrative order.

SEC. 305. INNOVATIVE TECHNOLOGY COMPLIANCE DEADLINES FOR DIRECT DISCHARGERS.

(a) Extension of Deadline.—Section 301(k) is amended by striking out "July 1, 1987," and inserting in lieu thereof "two years after the date for compliance with such effluent limitation which would otherwise be applicable under such subsection,".

(b) Extension to Conventional Pollutants.—Section 301(k) is amended by inserting "or (b)(2)(E)" after "(b)(2)(A)" each place it appears.

SEC. 306. FUNDAMENTALLY DIFFERENT FACTORS.

(a) General Rule.—Section 301 is amended by adding at the end the following new subsections:

"(n) Fundamentally Different Factors.—

"(1) General rule.—The Administrator, with the concurrence of the State, may establish an alternative requirement under subsection (b)(2) or section 307(b) for a facility that modifies the requirements of national effluent limitation guidelines or categorical pretreatment standards that would otherwise be applicable to such facility, if the owner or operator of such facility demonstrates to the satisfaction of the Administrator that—

"(A) the facility is fundamentally different with respect to the factors (other than cost) specified in section 304(b) or 304(g) and considered by the Administrator in establishing such national effluent limitation guidelines or categorical pretreatment standards;

"(B) the application—

"(i) is based solely on information and supporting data submitted to the Administrator during the rulemaking for establishment of the applicable national effluent limitation guidelines or categorical pretreatment standard specifically raising the factors that are fundamentally different for such facility; or

"(ii) is based on information and supporting data referred to in clause (i) and information and supporting data the applicant did not have a reasonable opportunity to submit during such rulemaking;

"(C) the alternative requirement is no less stringent than justified by the fundamental difference; and

"(D) the alternative requirement will not result in a non-water quality environmental impact which is markedly more adverse than the impact considered by the Administrator in establishing such national effluent limitation guideline or categorical pretreatment standard.

"(2) Time limit for applications.—An application for an alternative requirement which modifies the requirements of an effluent limitation or pretreatment standard under this subsection must be submitted to the Administrator within 180 days after the date on which such limitation or standard is established or revised, as the case may be.

"(3) Time limit for decision.—The Administrator shall approve or deny by final agency action an application submitted under this subsection within 180 days after the date such application is filed with the Administrator.

"(4) Submission of information.—The Administrator may allow an applicant under this subsection to submit information and supporting data until the earlier of the date the application is approved or denied or the last day that the Administrator has to approve or deny such application.

"(5) Treatment of pending applications.—For the purposes of this subsection, an application for an alternative requirement based on fundamentally different factors which is pending on the date of the enactment of this subsection shall be treated as having been submitted to the Administrator on the 180th day following such date of enactment. The applicant may amend the application to take into account the provisions of this subsection.

"(6) Effect of submission of application.—An application for an alternative requirement under this subsection shall not stay the applicant's obligation to comply with the effluent limitation guideline or categorical pretreatment standard which is the subject of the application.

"(7) Effect of denial.—If an application for an alternative requirement which modifies the requirements of an effluent limitation or pretreatment standard under this subsection is denied by the Administrator, the applicant must comply with such limitation or standard as established or revised, as the case may be.

"(8) Reports.—Every 6 months after the date of the enactment of this subsection, the Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the status of applications for alternative requirements which modify the requirements of effluent limitations under section 301 or 304 of this Act or any national categorical pretreatment standard under section 307(b) of this Act filed before, on, or after such date of enactment.

"(o) Application Fees.—The Administrator shall prescribe and collect from each applicant fees reflecting the reasonable administrative costs incurred in reviewing and processing applications for modifications submitted to the Administrator pursuant to subsections (c), (g), (i), (k), (m), and (n) of section 301, section 304(d)(4), and section 316(a) of this Act. All amounts collected by the Administrator under this subsection shall be deposited into a special fund of the Treasury entitled 'Water Permits and Related Services' which shall thereafter be available for appropriation to carry out activities of the Environmental Protection Agency for which such fees were collected.".

(b) Conforming Amendment.—Section 301(l) is amended by striking out "The" and inserting in lieu thereof "Other than as provided in subsection (n) of this section, the".

(c) Phosphate Fertilizer Effluent Limitation.—

(1) Limitation on Applicability.—The effluent limitation established by the Administrator pursuant to section 301(b) of the Federal Water Pollution Control Act for the phosphate subcategory of the fertilizer manufacturing point source category shall not apply to facilities which had commenced construction on or before April 8, 1974, and for which the Administrator is proposing to revise the applicability of such limitations to exclude such facilities.

(2) Issuance of permit.—As soon as possible after the date of the enactment of this Act, but not later than 180 days after such date of enactment, the Administrator shall issue permits under section 402(a)(1)(B) of the Federal Water Pollution Control Act with respect to the facilities described in paragraph (1). Such permits shall remain in effect until, after such date of enactment, issuance of a permit under effluent guidelines applicable to discharges for the phosphate subcategory.

SEC. 307. COAL REMINING OPERATIONS.

Section 301 is amended by adding at the end thereof the following:

"(p) Modified Permit for Coal Remining Operations.—

"(1) In general.—Subject to paragraphs (2) through (4) of this subsection, the Administrator, or the State in any case which the State has an approved permit program under section 402(b), may issue a permit under section 402 which modifies the requirements of subsection (b)(2)(A) of this section with respect to the pH level of any pre-existing discharge, and with respect to pre-existing discharges of iron and manganese from the remined area of any coal remining operation or with respect to the pH level or level of iron or manganese in any pre-existing discharge affected by the remining operation. Such modified requirements shall apply the best available technology economically achievable on a case-by-case basis, using best professional judgment, to set specific numerical effluent limitations in each permit.

"(2) Limitations.—The Administrator or the State may only issue a permit pursuant to paragraph (1) if the applicant demonstrates to the satisfaction of the Administrator or the State, as the case may be, that the coal remining operation will result in the potential for improved water quality from the remining operation but in no event shall such a permit allow the pH level of any discharge, and in no event shall such a permit allow the discharges of iron and manganese, to exceed the levels being discharged from the remined area before the coal remining operation begins. No discharge from, or affected by, the remining operation shall exceed State water quality standards established under section 303 of this Act.

"(3) Definitions.—For purposes of this subsection—

"(A) Coal remining operation.—The term 'coal remining operation' means a coal mining operation which begins after the date of the enactment of this subsection at a site on which coal mining was conducted before the effective date of the Surface Mining Control and Reclamation Act of 1977.

"(B) Remined area.—The term 'remined area' means only that area of any coal remining operation on which coal mining was conducted before the effective date of the Surface Mining Control and Reclamation Act of 1977.

"(C) Pre-existing discharge.—The term 'pre-existing discharge' means any discharge at the time of permit application under this subsection.

"(4) Applicability of strip mining laws.—Nothing in this subsection shall affect the application of the Surface Mining Control and Reclamation Act of 1977 to any coal remining operation, including the application of such Act to suspended solids.".

SEC. 308. INDIVIDUAL CONTROL STRATEGIES FOR TOXIC POLLUTANTS.

(a) In General.—Section 304 is amended by adding at the end thereof the following new subsection:

"(l) Individual Control Strategies for Toxic Pollutants.—

"(1) State list of navigable waters and development of strategies.—Not later than 2 years after the date of the enactment of this subsection, each State shall submit to the Administrator for review, approval, and implementation under this subsection—

"(A) a list of those waters within the State which after the application of effluent limitations required under section 301(b)(2) of this Act cannot reasonably be anticipated to attain or maintain (i) water quality standards for such waters reviewed, revised, or adopted in accordance with section 303(c)(2)(B) of this Act, due to toxic pollutants, or (ii) that water quality which shall assure protection of public health, public water supplies, agricultural and industrial uses, and the protection and propagation of a balanced population of shellfish, fish and wildlife, and allow recreational activities in and on the water;

"(B) a list of all navigable waters in such State for which the State does not expect the applicable standard under section 303 of this Act will be achieved after the requirements of sections 301(b), 306, and 307(b) are met, due entirely or substantially to discharges from point sources of any toxic pollutants listed pursuant to section 307(a);

"(C) for each segment of the navigable waters included on such lists, a determination of the specific point sources discharging any such toxic pollutant which is believed to be preventing or impairing such water quality and the amount of each such toxic pollutant discharged by each such source; and

"(D) for each such segment, an individual control strategy which the State determines will produce a reduction in the discharge of toxic pollutants from point sources identified by the State under this paragraph through the establishment of effluent limitations under section 402 of this Act and water quality standards under section 303(c)(2)(B) of this Act, which reduction is sufficient, in combination with existing controls on point and nonpoint sources of pollution, to achieve the applicable water quality standard as soon as possible, but not later than 3 years after the date of the establishment of such strategy.

"(2) Approval or disapproval.—Not later than 120 days after the last day of the 2-year period referred to in paragraph (1), the Administrator shall approve or disapprove the control strategies submitted under paragraph (1) by any State.

"(3) Administrator's action.—If a State fails to submit control strategies in accordance with paragraph (1) or the Administrator does not approve the control strategies submitted by such State in accordance with paragraph (1), then, not later than 1 year after the last day of the period referred to in paragraph (2), the Administrator, in cooperation with such State and after notice and opportunity for public comment, shall implement the requirements of paragraph (1) in such State. In the implementation of such requirements, the Administrator shall, at a minimum, consider for listing under this subsection any navigable waters for which any person submits a petition to the Administrator for listing not later than 120 days after such last day."

(b) Judicial Review.—Section 509(b)(1) is amended—

(1) by striking out "and (F)" and inserting in lieu thereof "(F)"; and

(2) by inserting after "any permit under section 402," the following: "and (G) in promulgating any individual control strategy under section 304(l),".

(c) Guidance to States; Information on Water Quality Criteria for Toxics.—Section 304(a) is amended by adding at the end the following new paragraphs:

"(7) Guidance to states.—The Administrator, after consultation with appropriate State agencies and on the basis of criteria and information published under paragraphs (1) and (2) of this subsection, shall develop and publish, within 9 months after the date of the enactment of the Water Quality Act of 1987, guidance to the States on performing the identification required by section 304(l)(1) of this Act.

"(8) Information on water quality criteria.—The Administrator, after consultation with appropriate State agencies and within 2 years after the date of the enactment of the Water Quality Act of 1987, shall develop and publish information on methods for establishing and measuring water quality criteria for toxic pollutants on other bases than pollutant-by-pollutant criteria, including biological monitoring and assessment methods.".

(d) Water Quality Criteria for Toxic Pollutants.—Section 303(c)(2) is amended by inserting "(A)" after "(2)" and by adding the following new subparagraph:

"(B) Whenever a State reviews water quality standards pursuant to paragraph (1) of this subsection, or revises or adopts new standards pursuant to this paragraph, such State shall adopt criteria for all toxic pollutants listed pursuant to section 307(a)(1) of this Act for which criteria have been published under section 304(a), the discharge or presence of which in the affected waters could reasonably be expected to interfere with those designated uses adopted by the State, as necessary to support such designated uses. Such criteria shall be specific numerical criteria for such toxic pollutants. Where such numerical criteria are not available, whenever a State reviews water quality standards pursuant to paragraph (1), or revises or adopts new standards pursuant to this paragraph, such State shall adopt criteria based on biological monitoring or assessment methods consistent with information published pursuant to section 304(a)(8). Nothing in this section shall be construed to limit or delay the use of effluent limitations or other permit conditions based on or involving biological monitoring or assessment methods or previously adopted numerical criteria.".

(e) Modifications of Effluent Limitations.—

(1) In general.—Section 302(b) is amended to read as follows:

"(b) Modifications of Effluent Limitations.—

"(1) Notice and hearing.—Prior to establishment of any effluent limitation pursuant to subsection (a) of this section, the Administrator shall publish such proposed limitation and within 90 days of such publication hold a public hearing.

"(2) Permits.—

"(A) No reasonable relationship.—The Administrator, with the concurrence of the State, may issue a permit which modifies the effluent limitations required by subsection (a) of this section for pollutants other than toxic pollutants if the applicant demonstrates at such hearing that (whether or not technology or other alternative control strategies are available) there is no reasonable relationship between the economic and social costs and the benefits to be obtained (including attainment of the objective of this Act) from achieving such limitation.

"(B) Reasonable progress.—The Administrator, with the concurrence of the State, may issue a permit which modifies the effluent limitations required by subsection (a) of this section for toxic pollutants for a single period not to exceed 5 years if the applicant demonstrates to the satisfaction of the Administrator that such modified requirements (i) will represent the maximum degree of control within the economic capability of the owner and operator of the source, and (ii) will result in reasonable further progress beyond the requirements of section 301(b)(2) toward the requirements of subsection (a) of this section.".

(2) Conforming amendments.—Section 302(a) is amended—

(A) by inserting "or as identified under section 304(l)" after "in the judgment of the Administrator"; and

(B) by inserting "public health," after "protection of".

(f) Schedule for Review of Guidelines.—Section 304 is amended by adding at the end the following new subsection:

"(m) Schedule for Review of Guidelines.—

"(1) Publication.—Within 12 months after the date of the enactment of the Water Quality Act of 1987, and biennially thereafter, the Administrator shall publish in the Federal Register a plan which shall—

"(A) establish a schedule for the annual review and revision of promulgated effluent guidelines, in accordance with subsection (b) of this section;

"(B) identify categories of sources discharging toxic or nonconventional pollutants for which guidelines under subsection (b)(2) of this section and section 306 have not previously been published; and

"(C) establish a schedule for promulgation of effluent guidelines for categories identified in subparagraph (B), under which promulgation of such guidelines shall be no later than 4 years after such date of enactment for categories identified in the first published plan or 3 years after the publication of the plan for categories identified in later published plans.

"(2) Public review.—The Administrator shall provide for public review and comment on the plan prior to final publication.".

(g) Water Quality Improvement Study.—

(1) Study.—The Administrator shall study the water quality improvements which have been achieved by application of best available technology economically achievable pursuant to section 301(b)(2) of the Federal Water Pollution Control Act. Such study shall include, but not be limited to, an analysis of the effectiveness of the application of best available technology economically achievable pursuant to such section in attaining applicable water quality standards (including the standard specified in section 302(a) of such Act) and an analysis of the effectiveness of the water quality program under such Act and methods of improving such program, including site specific levels of treatment which will achieve the water quality goals of such Act.

(2) Report.—Not later than 2 years after the date of the enactment of this Act, the Administrator shall submit a report on the results of the study conducted under subsection (a) together with recommendations for improving the water quality program and its effectiveness to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate.

SEC. 309. PRETREATMENT STANDARDS.

(a) Extension of Compliance Date by POTW.—Section 307 is amended by adding at the end the following:

"(e) Compliance Date Extension for Innovative Pretreatment Systems.—In the case of any existing facility that proposes to comply with the pretreatment standards of subsection (b) of this section by applying an innovative system that meets the requirements of section 301(k) of this Act, the owner or operator of the publicly owned treatment works receiving the treated effluent from such facility may extend the date for compliance with the applicable pretreatment standard established under this section for a period not to exceed 2 years—

"(1) if the Administrator determines that the innovative system has the potential for industrywide application, and

"(2) if the Administrator (or the State in consultation with the Administrator, in any case in which the State has a pretreatment program approved by the Administrator)—

"(A) determines that the proposed extension will not cause the publicly owned treatment works to be in violation of its permit under section 402 or of section 405 or to contribute to such a violation, and

"(B) concurs with the proposed extension.".

(b) Increase in EPA Employees.—The Administrator shall take such actions as may be necessary to increase the number of employees of the Environmental Protection Agency in order to effectively implement pretreatment requirements under section 307 of the Federal Water Pollution Control Act.

SEC. 310. INSPECTION AND ENTRY.

(a) Unauthorized Disclosure.—

(1) In general.—Section 308(b) is amended by striking out all that follows "Code" and inserting in lieu thereof a period and the following: "Any authorized representative of the Administrator (including an authorized contractor acting as a representative of the Administrator) who knowingly or willfully publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law any information which is required to be considered confidential under this subsection shall be fined not more than $1,000 or imprisoned not more than 1 year, or both. Nothing in this subsection shall prohibit the Administrator or an authorized representative of the Administrator (including any authorized contractor acting as a representative of the Administrator) from disclosing records, reports, or information to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act.".

(2) Conforming amendment.—Section 308(a)(B) is amended by inserting "(including an authorized contractor acting as a representative of the Administrator)" after "or

his authorized representative".

(b) Access by Congress.—Section 308 is amended by adding at the end the following new subsection:

"(d) Access by Congress.—Notwithstanding any limitation contained in this section or any other provision of law, all information reported to or otherwise obtained by the Administrator (or any representative of the Administrator) under this Act shall be made available, upon written request of any duly authorized committee of Congress, to such committee.".

SEC. 311. MARINE SANITATION DEVICES.

(a) State Regulation of Houseboats.—Section 312(f)(1) is amended by striking out "After" and inserting in lieu thereof "(A) Except as provided in subparagraph (B), after" and by adding at the end thereof the following:

"(B) A State may adopt and enforce a statute or regulation with respect to the design, manufacture, or installation or use of any marine sanitation device on a houseboat, if such statute or regulation is more stringent than the standards and regulations promulgated under this section. For purposes of this paragraph, the term 'houseboat' means a vessel which, for a period of time determined by the State in which the vessel is located, is used primarily as a residence and is not used primarily as a means of transportation.".

(b) State Enforcement.—Section 312(k) is amended by adding at the end the following: "The provisions of this section may also be enforced by a State.".

SEC. 312. CRIMINAL PENALTIES.

Section 309(c) is amended to read as follows:

"(c) Criminal Penalties.—

"(1) Negligent violations.—Any person who—

"(A) negligently violates section 301, 302, 306, 307, 308, 318, or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator or by a State, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act or in a permit issued under section 404 of this Act by the Secretary of the Army or by a State; or

"(B) negligently introduces into a sewer system or into a publicly owned treatment works any pollutant or hazardous substance which such person knew or reasonably should have known could cause personal injury or property damage or, other than in compliance with all applicable Federal, State, or local requirements or permits, which causes such treatment works to violate any effluent limitation or condition in any permit issued to the treatment works under section 402 of this Act by the Administrator or a State;

shall be punished by a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment of not more than 2 years, or by both.

"(2) Knowing violations.—Any person who—

"(A) knowingly violates section 301, 302, 306, 307, 308, 318, or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator or by a State, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act or in a permit issued under section 404 of this Act by the Secretary of the Army or by a State; or

"(B) knowingly introduces into a sewer system or into a publicly owned treatment works any pollutant or hazardous substance which such person knew or reasonably should have known could cause personal injury or property damage or, other than in compliance with all applicable Federal, State, or local requirements or permits, which causes such treatment works to violate any effluent limitation or condition in a permit issued to the treatment works under section 402 of this Act by the Administrator or a State;

shall be punished by a fine of not less than $5,000 nor more than $50,000 per day of violation, or by imprisonment for not more than 3 years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $100,000 per day of violation, or by imprisonment of not more than 6 years, or by both.

"(3) Knowing endangerment.—

"(A) General rule.—Any person who knowingly violates section 301, 302, 303, 306, 307, 308, 318, or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator or by a State, or in a permit issued under section 404 of this Act by the Secretary of the Army or by a State, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than $250,000 or imprisonment of not more than 15 years, or both. A person which is an organization shall, upon conviction of violating this subparagraph, be subject to a fine of not more than $1,000,000. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both fine and imprisonment.

"(B) Additional provisions.—For the purpose of subparagraph (A) of this paragraph—

"(i) in determining whether a defendant who is an individual knew that his conduct placed another person in imminent danger of death or serious bodily injury—

"(I) the person is responsible only for actual awareness or actual belief that he possessed; and

"(II) knowledge possessed by a person other than the defendant but not by the defendant himself may not be attributed to the defendant;

except that in proving the defendant's possession of actual knowledge, circumstantial evidence may be used, including evidence that the defendant took affirmative steps to shield himself from relevant information;

"(ii) it is an affirmative defense to prosecution that the conduct charged was consented to by the person endangered and that the danger and conduct charged were reasonably foreseeable hazards of—

"(I) an occupation, a business, or a profession; or

"(II) medical treatment or medical or scientific experimentation conducted by professionally approved methods and such other person had been made aware of the risks involved prior to giving consent;

and such defense may be established under this subparagraph by a preponderance of the evidence;

"(iii) the term 'organization' means a legal entity, other than a government, established or organized for any purpose, and such term includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, trust, society, union, or any other association of persons; and

"(iv) the term 'serious bodily injury' means bodily injury which involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

"(4) False statements.—Any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under this Act, shall upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 2 years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or by both.

"(5) Treatment of single operational upset.—For purposes of this subsection, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

"(6) Responsible corporate officer as 'person'.—For the purpose of this subsection, the term 'person' means, in addition to the definition contained in section 502(5) of this Act, any responsible corporate officer.

"(7) Hazardous substance defined.—For the purpose of this subsection, the term 'hazardous substance' means (A) any substance designated pursuant to section 311(b)(2)(A) of this Act, (B) any element, compound, mixture, solution, or substance designated pursuant to section 102 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, (C) any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Act of Congress), (D) any toxic pollutant listed under section 307(a) of this Act, and (E) any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 7 of the Toxic Substances Control Act.".

SEC. 313. CIVIL PENALTIES.

(a) Violations of Pretreatment Requirements.—

(1) General rule.—Section 309(d) is amended by inserting ", or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act," after "section 404 of this Act by a State,".

(2) Savings provision.—No State shall be required before July 1, 1988, to modify a permit program approved or submitted under section 402 of the Federal Water Pollution Control Act as a result of the amendment made by paragraph (1).

(b) Increased Penalty.—

(1) General rule.—Section 309(d) is amended by striking out "$10,000 per day of such violation" and inserting in lieu thereof "$25,000 per day for each violation".

(2) Increased penalties not required under state programs.—The Federal Water Pollution Control Act shall not be construed as requiring a State to have a civil penalty for violations described in section 309(d) of such Act which has the same monetary amount as the civil penalty established by such section, as amended by paragraph (1). Nothing in this paragraph shall affect the Administrator's authority to establish or adjust by regulation a minimum acceptable State civil penalty.

(c) Factors To Consider in Determining Penalty Amount.—Section 309(d) is amended by adding at the end thereof the following: "In determining the amount of a civil penalty the court shall consider the seriousness of the violation or violations, the economic benefit (if any) resulting from the violation, any history of such violations, any good-faith efforts to comply with the applicable requirements, the economic impact of the penalty on the violator, and such other matters as justice may require. For purposes of this subsection, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.".

(d) Violations of Section 404 Permits.—Section 404(s) is amended—

(1) by striking out paragraph (4);

(2) by redesignating paragraph (5) as paragraph (4); and

(3) in paragraph (4), as so redesignated—

(A) by striking out "$10,000 per day of such violation" and inserting in lieu thereof "$25,000 per day for each violation";

(B) by adding at the end thereof the following: "In determining the amount of a civil penalty the court shall consider the seriousness of the violation or violations, the economic benefit (if any) resulting from the violation, any history of such violations, any good-faith efforts to comply with the applicable requirements, the economic impact of the penalty on the violator, and such other matters as justice may require.".

SEC. 314. ADMINISTRATIVE PENALTIES.

(a) General Rule.—Section 309 is amended by adding at the end thereof the following:

"(g) Administrative Penalties.—

"(1) Violations.—Whenever on the basis of any information available—

"(A) the Administrator finds that any person has violated section 301, 302, 306, 307, 308, 318, or 405 of this Act, or has violated any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator or by a State, or in a permit issued under section 404 by a State, or

"(B) the Secretary of the Army (hereinafter in this subsection referred to as the 'Secretary') finds that any person has violated any permit condition or limitation in a permit issued under section 404 of this Act by the Secretary,

the Administrator or Secretary, as the case may be, may, after consultation with the State in which the violation occurs, assess a class I civil penalty or a class II civil penalty under this subsection.

"(2) Classes of penalties.—

"(A) Class I.—The amount of a class I civil penalty under paragraph (1) may not exceed $10,000 per violation, except that the maximum amount of any class I civil penalty under this subparagraph shall not exceed $25,000. Before issuing an order assessing a civil penalty under this subparagraph, the Administrator or the Secretary, as the case may be, shall give to the person to be assessed such penalty written notice of the Administrator's or Secretary's proposal to issue such order and the opportunity to request, within 30 days of the date the notice is received by such person, a hearing on the proposed order. Such hearing shall not be subject to section 554 or 556 of title 5, United States Code, but shall provide a reasonable opportunity to be heard and to present evidence.

"(B) Class II.—The amount of a class II civil penalty under paragraph (1) may not exceed $10,000 per day for each day during which the violation continues; except that the maximum amount of any class II civil penalty under this subparagraph shall not exceed $125,000. Except as otherwise provided in this subsection, a class II civil penalty shall be assessed and collected in the same manner, and subject to the same provisions, as in the case of civil penalties assessed and collected after notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code. The Administrator and the Secretary may issue rules for discovery procedures for hearings under this subparagraph.

"(3) Determining amount.—In determining the amount of any penalty assessed under this subsection, the Administrator or the Secretary, as the case may be, shall take into account the nature, circumstances, extent and gravity of the violation, or violations, and, with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings (if any) resulting from the violation, and such other matters as justice may require. For purposes of this subsection, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

"(4) Rights of interested persons.—

"(A) Public notice.—Before issuing an order assessing a civil penalty under this subsection the Administrator or Secretary, as the case may be, shall provide public notice of and reasonable opportunity to comment on the proposed issuance of such order.

"(B) Presentation of evidence.—Any person who comments on a proposed assessment of a penalty under this subsection shall be given notice of any hearing held under this subsection and of the order assessing such penalty. In any hearing held under this subsection, such person shall have a reasonable opportunity to be heard and to present evidence.

"(C) Rights of interested persons to a hearing.—If no hearing is held under paragraph (2) before issuance of an order assessing a penalty under this subsection, any person who commented on the proposed assessment may petition, within 30 days after the issuance of such order, the Administrator or Secretary, as the case may be, to set aside such order and to provide a hearing on the penalty. If the evidence presented by the petitioner in support of the petition is material and was not considered in the issuance of the order, the Administrator or Secretary shall immediately set aside such order and provide a hearing in accordance with paragraph (2)(A) in the case of a class I civil penalty and paragraph (2)(B) in the case of a class II civil penalty. If the Administrator or Secretary denies a hearing under this subparagraph, the Administrator or Secretary shall provide to the petitioner, and publish in the Federal Register, notice of and the reasons for such denial.

"(5) Finality of order.—An order issued under this subsection shall become final 30 days after its issuance unless a petition for judicial review is filed under paragraph (8) or a hearing is requested under paragraph (4)(C). If such a hearing is denied, such order shall become final 30 days after such denial.

"(6) Effect of order.—

"(A) Limitation on actions under other sections.—Action taken by the Administrator or the Secretary, as the case may be, under this subsection shall not affect or limit the Administrator's or Secretary's authority to enforce any provision of this Act; except that any violation—

"(i) with respect to which the Administrator or the Secretary has commenced and is diligently prosecuting an action under this subsection,

"(ii) with respect to which a State has commenced and is diligently prosecuting an action under a State law comparable to this subsection, or

"(iii) for which the Administrator, the Secretary, or the State has issued a final order not subject to further judicial review and the violator has paid a penalty assessed under this subsection, or such comparable State law, as the case may be,

shall not be the subject of a civil penalty action under subsection (d) of this section or section 311(b) or section 505 of this Act.

"(B) Applicability of limitation with respect to citizen suits.—The limitations contained in subparagraph (A) on civil penalty actions under section 505 of this Act shall not apply with respect to any violation for which—

"(i) a civil action under section 505(a)(1) of this Act has been filed prior to commencement of an action under this subsection, or

"(ii) notice of an alleged violation of section 505(a)(1) of this Act has been given in accordance with section 505(b)(1)(A) prior to commencement of an action under this subsection and an action under section 505(a)(1) with respect to such alleged violation is filed before the 120th day after the date on which such notice is given.

"(7) Effect of action on compliance.—No action by the Administrator or the Secretary under this subsection shall affect any person's obligation to comply with any section of this Act or with the terms and conditions of any permit issued pursuant to section 402 or 404 of this Act.

"(8) Judicial review.—Any person against whom a civil penalty is assessed under this subsection or who commented on the proposed assessment of such penalty in accordance with paragraph (4) may obtain review of such assessment—

"(A) in the case of assessment of a class I civil penalty, in the United States District Court for the District of Columbia or in the district in which the violation is alleged to have occurred, or

"(B) in the case of assessment of a class II civil penalty, in the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business,

by filing a notice of appeal in such court within the 30-day period beginning on the date the civil penalty order is issued and by simultaneously sending a copy of such notice by certified mail to the Administrator or the Secretary, as the case may be, and the Attorney General. The Administrator or the Secretary shall promptly file in such court a certified copy of the record on which the order was issued. Such court shall not set aside or remand such order unless there is not substantial evidence in the record, taken as a whole, to support the finding of a violation or unless the Administrator's or Secretary's assessment of the penalty constitutes an abuse of discretion and shall not impose additional civil penalties for the same violation unless the Administrator's or Secretary's assessment of the penalty constitutes an abuse of discretion.

"(9) Collection.—If any person fails to pay an assessment of a civil penalty—

"(A) after the order making the assessment has become final, or

"(B) after a court in an action brought under paragraph (8) has entered a final judgment in favor of the Administrator or the Secretary, as the case may be,

the Administrator or the Secretary shall request the Attorney General to bring a civil action in an appropriate district court to recover the amount assessed (plus interest at currently prevailing rates from the date of the final order or the date of the final judgment, as the case may be). In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review. Any person who fails to pay on a timely basis the amount of an assessment of a civil penalty as described in the first sentence of this paragraph shall be required to pay, in addition to such amount and interest, attorneys fees and costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to 20 percent of the aggregate amount of such person's penalties and nonpayment penalties which are unpaid as of the beginning of such quarter.

"(10) Subpoenas.—The Administrator or Secretary, as the case may be, may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, or documents in connection with hearings under this subsection. In case of contumacy or refusal to obey a subpoena issued pursuant to this paragraph and served upon any person, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the administrative law judge or to appear and produce documents before the administrative law judge, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(11) Protection of existing procedures.—Nothing in this subsection shall change the procedures existing on the day before the date of the enactment of the Water Quality Act of 1987 under other subsections of this section for issuance and enforcement of orders by the Administrator.".

(b) Reports on Enforcement Mechanisms.—The Secretary of the Army and the Administrator shall each prepare and submit a report to the Congress, not later than December 1, 1988, which shall examine and analyze various enforcement mechanisms for use by the Secretary or Administrator, as the case may be, including an administrative civil penalty mechanism. Each of such reports shall also include an examination, prepared in consultation with the Comptroller General, of the efficacy of the Secretary's or the Administrator's existing enforcement authorities and shall include recommendations for improvements in their operation.

(c) Conforming Amendment.—Section 505(a) is amended by inserting "and section 309(g)(6)" after "Except as provided in subsection (b) of this section".

SEC. 315. CLEAN LAKES.

(a) Establishment and Scope of Program.—Section 314(a) is amended to read as follows:

"(a) Establishment and Scope of Program.—

"(1) State program requirements.—Each State on a biennial basis shall prepare and submit to the Administrator for his approval—

"(A) an identification and classification according to eutrophic condition of all publicly owned lakes in such State;

"(B) a description of procedures, processes, and methods (including land use requirements), to control sources of pollution of such lakes;

"(C) a description of methods and procedures, in conjunction with appropriate Federal agencies, to restore the quality of such lakes;

"(D) methods and procedures to mitigate the harmful effects of high acidity, including innovative methods of neutralizing and restoring buffering capacity of lakes and methods of removing from lakes toxic metals and other toxic substances mobilized by high acidity;

"(E) a list and description of those publicly owned lakes in such State for which uses are known to be impaired, including those lakes which are known not to meet applicable water quality standards or which require implementation of control programs to maintain compliance with applicable standards and those lakes in which water quality has deteriorated as a result of high acidity that may reasonably be due to acid deposition; and

"(F) an assessment of the status and trends of water quality in lakes in such State, including but not limited to, the nature and extent of pollution loading from point and nonpoint sources and the extent to which the use of lakes is impaired as a result of such pollution, particularly with respect to toxic pollution.

"(2) Submission as part of 305(b)(1) report.—The information required under paragraph (1) shall be included in the report required under section 305(b)(1) of this Act, beginning with the report required under such section by April 1, 1988.

"(3) Report of administrator.—Not later than 180 days after receipt from the States of the biennial information required under paragraph (1), the Administrator shall submit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the status of water quality in lakes in the United States, including the effectiveness of the methods and procedures described in paragraph (1)(D).

"(4) Eligibility requirement.—Beginning after April 1, 1988, a State must have submitted the information required under paragraph (1) in order to receive grant assistance under this section.".

(b) Demonstration Program.—Section 314 is amended by adding at the end thereof the following new subsections:

"(d) Demonstration Program.—

"(1) General requirements.—The Administrator is authorized and directed to establish and conduct at locations throughout the Nation a lake water quality demonstration program. The program shall, at a minimum—

"(A) develop cost effective technologies for the control of pollutants to preserve or enhance lake water quality while optimizing multiple lakes uses;

"(B) control nonpoint sources of pollution which are contributing to the degradation of water quality in lakes;

"(C) evaluate the feasibility of implementing regional consolidated pollution control strategies;

"(D) demonstrate environmentally preferred techniques for the removal and disposal of contaminated lake sediments;

"(E) develop improved methods for the removal of silt, stumps, aquatic growth, and other obstructions which impair the quality of lakes;

"(F) construct and evaluate silt traps and other devices or equipment to prevent or abate the deposit of sediment in lakes; and

"(G) demonstrate the costs and benefits of utilizing dredged material from lakes in the reclamation of despoiled land.

"(2) Geographical requirements.—Demonstration projects authorized by this subsection shall be undertaken to reflect a variety of geographical and environmental conditions. As a priority, the Administrator shall undertake demonstration projects at Lake Houston, Texas; Beaver Lake, Arkansas; Greenwood Lake and Belcher Creek, New Jersey; Deal Lake, New Jersey; Alcyon Lake, New Jersey; Gorton's Pond, Rhode Island; Lake Washington, Rhode Island; Lake Bomoseen, Vermont; Sauk Lake, Minnesota; and Lake Worth, Texas.

"(3) Reports.—The Administrator shall report annually to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate on work undertaken pursuant to this subsection. Upon completion of the program authorized by this subsection, the Administrator shall submit to such Committees a final report on the results of such program, along with recommendations for further measures to improve the water quality of the Nation's lakes.

"(4) Authorization of appropriations.—

"(A) In general.—There is authorized to be appropriated to carry out this subsection not to exceed $40,000,000 for fiscal years beginning after September 30, 1986, to remain available until expended.

"(B) Special authorizations.—

"(i) Amount.—There is authorized to be appropriated to carry out subsection (b) with respect to subsection (a)(1)(D) not to exceed $15,000,000 for fiscal years beginning after September 30, 1986, to remain available until expended.

"(ii) Distribution of funds.—The Administrator shall provide for an equitable distribution of sums appropriated pursuant to this subparagraph among States carrying out approved methods and procedures. Such distribution shall be based on the relative needs of each such State for the mitigation of the harmful effects on lakes and other surface waters of high acidity that may reasonably be due to acid deposition or acid mine drainage.

"(iii) Grants as additional assistance.—The amount of any grant to a State under this subparagraph shall be in addition to, and not in lieu of, any other Federal financial assistance.".

(c) Lake Restoration Guidance Manual.—Section 304(j) is amended to read as follows:

"(j) Lake Restoration Guidance Manual.—The Administrator shall, within 1 year after the date of the enactment of the Water Quality Act of 1987 and biennially thereafter, publish and disseminate a lake restoration guidance manual describing methods, procedures, and processes to guide State and local efforts to improve, restore, and enhance water quality in the Nation's publicly owned lakes.".

(d) Conforming Amendments.—Section 314 is further amended—

(1) in subsection (b) by striking out "this section" the first place it appears and inserting in lieu thereof "subsection (a) of this section";

(2) in subsection (c)(1) by striking out "this section" the first place it appears and inserting in lieu thereof "subsection (b) of this section" and by striking out "this section" the second place it appears and inserting in lieu thereof "subsection (a) of this section"; and

(3) in subsection (c)(2) by striking out "this section" the first place it appears and inserting in lieu thereof "subsection (b) of this section" and by striking out "this section" the second place it appears and inserting in lieu thereof "subsection (a) of this section".

SEC. 316. MANAGEMENT OF NONPOINT SOURCES OF POLLUTION.

(a) In General.—Title III is amended by adding at the end the following new section:

"SEC. 319. NONPOINT SOURCE MANAGEMENT PROGRAMS.

"(a) This section shall apply only to programs funded in whole or in part with sums reserved under section 205(l) of this Act.

"(b) State Management.—

"(1) In general.—The Governor of each State, for that State or in combination with adjacent States, may, after notice and opportunity for public comment, prepare and submit to the Administrator a management program which such State proposes to implement in the first four fiscal years beginning after the date of submission of such management program for controlling pollution added from nonpoint sources to the navigable waters within the State and improving the quality of such waters.

"(2) Specific contents.—Each management program proposed for implementation under this subsection should include each of the following:

"(A) An identification of the best management practices and measures which will be undertaken to reduce pollutant loadings resulting from each category, subcategory, or particular nonpoint source designated under paragraph (b)(1)(B), taking into account the impact of the practice on ground water quality.

"(B) An identification of programs (including, as appropriate, nonregulatory or regulatory programs for enforcement, technical assistance, financial assistance, education, training, technology transfer, and demonstration projects) to achieve implementation of the best management practices by the categories, subcategories, and particular nonpoint sources designated under subparagraph (A).

"(C) A schedule containing annual milestones for (i) utilization of the program implementation methods identified in subparagraph (B), and (ii) implementation of the best management practices identified in subparagraph (A) by the categories, subcategories, or particular nonpoint sources designated under paragraph (b)(1)(B). Such schedule shall provide for utilization of the best management practices at the earliest practicable date.

"(D) A certification of the attorney general of the State or States (or the chief attorney of any State water pollution control agency which has independent legal counsel) that the laws of the State or States, as the case may be, provide adequate authority to implement such management program or, if there is not such adequate authority, a list of such additional authorities as will be necessary to implement such management program. A schedule and commitment by the State or States to seek such additional authorities as expeditiously as practicable.

"(E) Sources of Federal and other assistance and funding (other than assistance provided under subsections (i) and (j)) which will be available in each of such fiscal years for supporting implementation of such practices and measures and the purposes for which such assistance will be used in each of such fiscal years.

"(F) An identification of Federal financial assistance programs and Federal development projects for which the State will review individual assistance applications or development projects for their effect on water quality pursuant to the procedures set forth in Executive Order 12372 as in effect on September 17, 1983, to determine whether such assistance applications or development projects would be consistent with the program prepared under this subsection; for the purposes of this subparagraph, identification shall not be limited to the assistance programs or development projects subject to Executive Order 12372 but may include any programs listed in the most recent Catalog of Federal Domestic Assistance which may have an effect on the purposes and objectives of the State's nonpoint source pollution management program.

"(3) UTILIZATION OF LOCAL AND PRIVATE EXPERTS.—In developing and implementing a management program under this subsection, a State should, to the maximum extent practicable, involve local public and private agencies and organizations which have expertise in control of nonpoint sources of pollution.

"(4) DEVELOPMENT ON WATERSHED BASIS.—A State should, to the maximum extent practicable, develop and implement a management program under this subsection on a watershed-by-watershed basis within such State.

"(d) GRANT PROGRAM.—

"(1) GRANTS FOR IMPLEMENTATION OF MANAGEMENT PROGRAMS.—Upon submission by a State of a management program under subsection (b), the Administrator may make grants, subject to such terms and conditions as the Administrator considers appropriate, under this subsection to such State for the purpose of assisting the State in implementing such management program.

"(2) APPLICATIONS.—An application for a grant under this subsection in any fiscal year shall be in such form and shall contain such other information as the Administrator may require, including an identification and description of the best management practices and measures which the State proposes to assist, encourage, or require in such year with the Federal assistance to be provided under the grant.

"(3) LIMITATION ON USE OF FUNDS.—States may use funds from grants made pursuant to this section for financial assistance to persons only to the extent that such assistance is related to the costs of demonstration projects.

"(4) MAINTENANCE OF EFFORT.—No grant may be made to a State under this subsection in any fiscal year unless such State enters into such agreements with the Administrator as the Administrator may require to ensure that such State will maintain its aggregate expenditures from all other sources for programs for controlling pollution added to the navigable waters in such State from nonpoint sources and improving the quality of such waters at or above the average level of such expenditures in its two fiscal years preceding the date of enactment of this subsection.

"(5) REQUEST FOR INFORMATION.—The Administrator may request such information, data, and reports as he considers necessary to make the determination of continuing eligibility for grants under this section.

"(j) GRANTS FOR PROTECTING GROUNDWATER QUALITY.—

"(1) ELIGIBLE APPLICANTS AND ACTIVITIES.—Upon submission by a State of a plan under subsection (b), the Administrator shall make grants under this subsection to such State for the purpose of assisting such State in carrying out groundwater quality protection activities which the Administrator determines will advance the State toward implementation of a comprehensive nonpoint source pollution control program. Such activities shall include, but not be limited to, research, planning, groundwater assessments, demonstration programs, enforcement, technical assistance, education and training to protect the quality of groundwater and to prevent contamination of groundwater from nonpoint sources of pollution.

"(2) APPLICATIONS.—An application for a grant under this subsection shall be in such form and shall contain such information as the Administrator may require.

"(k) CONSISTENCY OF OTHER PROGRAMS AND PROJECTS WITH MANAGEMENT PROGRAMS.—The Administrator shall transmit to the Office of Management and Budget and the appropriate Federal departments and agencies a list of those assistance programs and development projects identified by each State under subsection (b)(2)(F) for which individual assistance applications and projects will be reviewed pursuant to the procedures set forth in Executive Order 12372 as in effect on September 17, 1983. Beginning not later than sixty days after receiving notification by the Administrator, each Federal department and agency shall modify existing regulations to allow States to review individual development projects and assistance applications under the identified Federal assistance programs and shall accommodate, according to the requirements and definitions of Executive Order 12372, as in effect on September 17, 1983, the concerns of the State regarding the consistency of such applications or projects with the State nonpoint source pollution management program.

"(l) Collection of Information.—The Administrator shall collect and make available, through publications and other appropriate means, information pertaining to management practices and implementation methods, including, but not limited to, (1) information concerning the costs and relative efficiencies of best management practices for reducing nonpoint source pollution; and (2) available data concerning the relationship between water quality and implementation of various management practices to control nonpoint sources of pollution.

(b) Policy for Control of Nonpoint Sources of Pollution.—Section 101(a) is amended by striking out "and" at the end of paragraph (5), by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and", and by adding at the end thereof the following:

"(7) it is the national policy that programs for the control of nonpoint sources of pollution be developed and implemented in an expeditious manner so as to enable the goals of this Act to be met through the control of both point and nonpoint sources of pollution.".

(c) Conforming Amendment.—Section 304(k)(1) is amended by inserting "and nonpoint source pollution management programs approved under section 319 of this Act" after "208 of this Act".

SEC. 317. NATIONAL ESTUARY PROGRAM.

(a) Purposes and Policies.—

(1) Findings.—Congress finds and declares that—

(A) the Nation's estuaries are of great importance for fish and wildlife resources and recreation and economic opportunity;

(B) maintaining the health and ecological integrity of these estuaries is in the national interest;

(C) increasing coastal population, development, and other direct and indirect uses of these estuaries threaten their health and ecological integrity;

(D) long-term planning and management will contribute to the continued productivity of these areas, and will maximize their utility to the Nation; and

(E) better coordination among Federal and State programs affecting estuaries will increase the effectiveness and efficiency of the national effort to protect, preserve, and restore these areas.

(2) Purposes.—The purposes of this section are to—

(A) identify nationally significant estuaries that are threatened by pollution, development, or overuse;

(B) promote comprehensive planning for, and conservation and management of, nationally significant estuaries;

(C) encourage the preparation of management plans for estuaries of national significance; and

(D) enhance the coordination of estuarine research.

(b) Management Program.—Title III is amended by adding at the end thereof the following new section:

"SEC. 320. NATIONAL ESTUARY PROGRAM.

"(a) Management Conference.—

"(1) Nomination of estuaries.—The Governor of any State may nominate to the Administrator an estuary lying in whole or in part within the State as an estuary of national significance and request a management conference to develop a comprehensive management plan for the estuary. The nomination shall document the need for the conference, the likelihood of success, and information relating to the factors in paragraph (2).

"(2) Convening of conference.—

"(A) In general.—In any case where the Administrator determines, on his own initiative or upon nomination of a State under paragraph (1), that the attainment or maintenance of that water quality in an estuary which assures protection of public water supplies and the protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife, and allows recreational activities, in and on the water, requires the control of point and nonpoint sources of pollution to supplement existing controls of pollution in more than one State, the Administrator shall select such estuary and convene a management conference.

"(B) Priority consideration.—The Administrator shall give priority consideration under this section to Long Island Sound, New York and Connecticut; Narragansett Bay, Rhode Island; Buzzards Bay, Massachusetts; Puget Sound, Washington; New York-New Jersey Harbor, New York and New Jersey; Delaware Bay, Delaware and New Jersey; Delaware Inland Bays, Delaware; Albemarle Sound, North Carolina; Sarasota Bay, Florida; San Francisco Bay, California; and Galveston Bay, Texas.

"(3) Boundary dispute exception.—In any case in which a boundary between two States passes through an estuary and such boundary is disputed and is the subject of an action in any court, the Administrator shall not convene a management conference with respect to such estuary before a final adjudication has been made of such dispute.

"(b) Purposes of Conference.—The purposes of any management conference convened with respect to an estuary under this subsection shall be to—

"(1) assess trends in water quality, natural resources, and uses of the estuary;

"(2) collect, characterize, and assess data on toxics, nutrients, and natural resources within the estuarine zone to identify the causes of environmental problems;

"(3) develop the relationship between the inplace loads and point and nonpoint loadings of pollutants to the estuarine zone and the potential uses of the zone, water quality, and natural resources;

"(4) develop a comprehensive conservation and management plan that recommends priority corrective actions and compliance schedules addressing point and nonpoint sources of pollution to restore and maintain the chemical, physical, and biological integrity of the estuary, including restoration and maintenance of water quality, a balanced indigenous population of shellfish, fish and wildlife, and recreational activities in the estuary, and assure that the designated uses of the estuary are protected;

"(5) develop plans for the coordinated implementation of the plan by the States as well as Federal and local agencies participating in the conference;

"(6) monitor the effectiveness of actions taken pursuant to the plan; and

"(7) review all Federal financial assistance program and Federal development project in accordance with the requirements of Executive Order 12372, as in effect on September 17, 1983, to determine whether such assistance program or project would be consistent with and further the purposes and objectives of the plan prepared under this section.

For purposes of paragraph (7), such programs and projects shall not be limited to the assistance programs and development projects subject to Executive Order 12372, but may include any programs listed in the most recent Catalog of Federal Domestic Assistance which may have an effect on the purposes and objectives of the plan developed under this section.

"(c) Members of Conference.—The members of a management conference convened under this section shall include, at a minimum, the Administrator and representatives of—

"(1) each State and foreign nation located in whole or in part in the estuarine zone of the estuary for which the conference is convened;

"(2) international, interstate, or regional agencies or entities having jurisdiction over all or a significant part of the estuary;

"(3) each interested Federal agency, as determined appropriate by the Administrator;

"(4) local governments having jurisdiction over any land or water within the estuarine zone, as determined appropriate by the Administrator; and

"(5) affected industries, public and private educational institutions, and the general public, as determined appropriate by the Administrator.

"(d) Utilization of Existing Data.—In developing a conservation and management plan under this section, the management conference shall survey and utilize existing reports, data, and studies relating to the estuary that have been developed by or made available to Federal, interstate, State, and local agencies.

"(e) Period of Conference.—A management conference convened under this section shall be convened for a period not to exceed 5 years. Such conference may be extended by the Administrator, and if terminated after the initial period, may be reconvened by the Administrator at any time thereafter, as may be necessary to meet the requirements of this section.

"(f) Approval and Implementation of Plans.—

"(1) Approval.—Not later than 120 days after the completion of a conservation and management plan and after providing for public review and comment, the Administrator shall approve such plan if the plan meets the requirements of this section and the affected Governor or Governors concur.

"(2) Implementation.—Upon approval of a conservation and management plan under this section, such plan shall be implemented. Funds authorized to be appropriated under titles II and VI and section 319 of this Act may be used in accordance with the applicable requirements of this Act to assist States with the implementation of such plan.

"(g) Grants.—

"(1) Recipients.—The Administrator is authorized to make grants to State, interstate, and regional water pollution control agencies and entities, State coastal zone management agencies, interstate agencies, other public or nonprofit private agencies, institutions, organizations, and individuals.

"(2) Purposes.—Grants under this subsection shall be made to pay for assisting research, surveys, studies, and modeling and other technical work necessary for the development of a conservation and management plan under this section.

"(3) Federal share.—The amount of grants to any person (including a State, interstate, or regional agency or entity) under this subsection for a fiscal year shall not exceed 75 percent of the costs of such research, survey, studies, and work and shall be made on condition that the non-Federal share of such costs are provided from non-Federal sources.

"(h) Grant Reporting.—Any person (including a State, interstate, or regional agency or entity) that receives a grant under subsection (g) shall report to the Administrator not later than 18 months after receipt of such grant and biennially thereafter on the progress being made under this section.

"(i) Authorization of Appropriations.—There are authorized to be appropriated to the Administrator not to exceed $12,000,000 per fiscal year for each of fiscal years 1987, 1988, 1989, 1990, and 1991 for—

"(1) expenses related to the administration of management conferences under this section, not to exceed 10 percent of the amount appropriated under this subsection;

"(2) making grants under subsection (g); and

"(3) monitoring the implementation of a conservation and management plan by the management conference or by the Administrator, in any case in which the conference has been terminated.

The Administrator shall provide up to $5,000,000 per fiscal year of the sums authorized to be appropriated under this subsection to the Administrator of the National Oceanic and Atmospheric Administration to carry out subsection (j).

"(j) Research.—

"(1) Programs.—In order to determine the need to convene a management conference under this section or at the request of such a management conference, the Administrator shall coordinate and implement, through the National Marine Pollution Program Office and the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration, as appropriate, for one or more estuarine zones—

"(A) a long-term program of trend assessment monitoring measuring variations in pollutant concentrations, marine ecology, and other physical or biological environmental parameter which may affect estuarine zones, to provide the Administrator the capacity to determine the potential and actual effects of alternative management strategies and measures;

"(B) a program of ecosystem assessment assisting in the development of (i) baseline studies which determine the state of estuarine zones and the effects of natural and anthropogenic changes, and (ii) predictive models capable of translating information on specific discharges or general pollutant loadings within estuarine zones into a set of probable effects on such zones;

"(C) a comprehensive water quality sampling program for the continuous monitoring of nutrients, chlorine, acid precipitation dissolved oxygen, and potentially toxic pollutants (including organic chemicals and metals) in estuarine zones, after consultation with interested State, local, interstate, or international agencies and review and analysis of all environmental sampling data presently collected from estuarine zones; and

"(D) a program of research to identify the movements of nutrients, sediments and pollutants through estuarine zones and the impact of nutrients, sediments, and pollutants on water quality, the ecosystem, and designated or potential uses of the estuarine zones.

"(2) Reports.—The Administrator, in cooperation with the Administrator of the National Oceanic and Atmospheric Administration, shall submit to the Congress no less often than biennially a comprehensive report on the activities authorized under this subsection including—

"(A) a listing of priority monitoring and research needs;

"(B) an assessment of the state and health of the Nation's estuarine zones, to the extent evaluated under this subsection;

"(C) a discussion of pollution problems and trends in pollutant concentrations with a direct or indirect effect on water quality, the ecosystem, and designated or potential uses of each estuarine zone, to the extent evaluated under this subsection; and

"(D) an evaluation of pollution abatement activities and management measures so far implemented to determine the degree of improvement toward the objectives expressed in subsection (b)(4) of this section.

"(k) Definitions.—For purposes of this section, the terms 'estuary' and 'estuarine zone' have the meanings such terms have in section 104(n)(4) of this Act, except that the term 'estuarine zone' shall also include associated aquatic ecosystems and those portions of tributaries draining into the estuary up to the historic height of migration of anadromous fish or the historic head of tidal influence, whichever is higher.".

SEC. 318. UNCONSOLIDATED QUATERNARY AQUIFER.

Notwithstanding any other provision of law, no person may—

(1) locate or authorize the location of a landfill, surface impoundment, waste pile, injection well, or land treatment facility over the Unconsolidated Quaternary Aquifer, or the recharge zone or streamflow source zone of such aquifer, in the Rockaway River Basin, New Jersey (as such aquifer and zones are described in the Federal Register, January 24, 1984, pages 2946-2948); or

(2) place or authorize the placement of solid waste in a landfill, surface impoundment, waste pile, injection well, or land treatment facility over such aquifer or zone.

This section may be enforced under sections 309 (a) and (b) of the Federal Water Pollution Control Act. For purposes of section 309(c) of such Act, a violation of this section shall be considered a violation of section 301 of the Federal Water Pollution Control Act.

TITLE IV—PERMITS AND LICENSES

SEC. 401. STORMWATER RUNOFF FROM OIL, GAS, AND MINING OPERATIONS.

(a) Limitation on Permit Requirement.—Section 402(l) is amended by inserting "(1) Agricultural return flows.—" before "The Administrator" and by adding at the end thereof the following:

"(2) Stormwater runoff from oil, gas, and mining operations.—The Administrator shall not require a permit under this section, nor shall the Administrator directly or indirectly require any State to require a permit, for discharges of stormwater runoff from mining operations or oil and gas exploration, production, processing, or treatment operations or transmission facilities, composed entirely of flows which are from conveyances or systems of conveyances (including but not limited to pipes, conduits, ditches, and channels) used for collecting and conveying precipitation runoff and which are not contaminated by contact with, or do not come into contact with, any overburden, raw material, intermediate products, finished product, by-product, or waste products located on the site of such operations.".

(b) Conforming Amendments.—Section 402(l) is further amended—

(1) by inserting "Limitation on Permit Requirement.—" after "(l)"; and

(2) by indenting paragraph (1) of such section, as designated by subsection (a) of this section, and aligning such paragraph with paragraph (2) of such section, as added by such subsection (a).

SEC. 402. ADDITIONAL PRETREATMENT OF CONVENTIONAL POLLUTANTS NOT REQUIRED.

Section 402 is amended by adding at the end thereof the following new subsection:

"(m) Additional Pretreatment of Conventional Pollutants Not Required.—To the extent a treatment works (as defined in section 212 of this Act) which is publicly owned is not meeting the requirements of a permit issued under this section for such treatment works as a result of inadequate design or operation of such treatment works, the Administrator, in issuing a permit under this section, shall not require pretreatment by a person introducing conventional pollutants identified pursuant to section 304(a)(4) of this Act into such treatment works other than pretreatment required to assure compliance with pretreatment standards under subsection (b)(8) of this section and section 307(b)(1) of this Act. Nothing in this subsection shall affect the Administrator's authority under sections 307 and 309 of this Act, affect State and local authority under sections 307(b)(4) and 510 of this Act, relieve such treatment works of its obligations to meet requirements established under this Act, or otherwise preclude such works from pursuing whatever feasible options are available to meet its responsibility to comply with its permit under this section.".

SEC. 403. PARTIAL NPDES PROGRAM.

(a) Partial Permit Program.—Section 402 is amended by adding at the end the following:

"(n) Partial Permit Program.—

"(1) State submission.—The Governor of a State may submit under subsection (b) of this section a permit program for a portion of the discharges into the navigable waters in such State.

"(2) Minimum coverage.—A partial permit program under this subsection shall cover, at a minimum, administration of a major category of the discharges into the navigable waters of the State or a major component of the permit program required by subsection (b).

"(3) Approval of major category partial permit programs.—The Administrator may approve a partial permit program covering administration of a major category of discharges under this subsection if—

"(A) such program represents a complete permit program and covers all of the discharges under the jurisdiction of a department or agency of the State; and

"(B) the Administrator determines that the partial program represents a significant and identifiable part of the State program required by subsection (b).

"(4) Approval of major component partial permit programs.—The Administrator may approve under this subsection a partial and phased permit program covering administration of a major component (including discharge categories) of a State permit program required by subsection (b) if—

"(A) the Administrator determines that the partial program represents a significant and identifiable part of the State program required by subsection (b); and

"(B) the State submits, and the Administrator approves, a plan for the State to assume administration by phases of the remainder of the State program required by subsection (b) by a specified date not more than 5 years after submission of the partial program under this subsection and agrees to make all reasonable efforts to assume such administration by such date.".

(b) Return of State Permit Program to Administrator.—

(1) In general.—Section 402(c) is amended by adding at the end thereof the following new paragraph:

"(4) Limitations on partial permit program returns and withdrawals.—A State may return to the Administrator administration, and the Administrator may withdraw under paragraph (3) of this subsection approval, of—

"(A) a State partial permit program approved under subsection (n)(3) only if the entire permit program being administered by the State department or agency at the time is returned or withdrawn; and

"(B) a State partial permit program approved under subsection (n)(4) only if an entire phased component of the permit program being administered by the State at the time is returned or withdrawn.".

(2) Conforming amendment.—Section 402(c)(1) is amended by striking out "as to those navigable waters" and inserting in lieu thereof "as to those discharges".

SEC. 404. ANTI-BACKSLIDING.

(a) General Rule.—Section 402 is amended by adding at the end thereof the following new subsection:

"(o) Anti-Backsliding.—

"(1) General prohibition.—In the case of effluent limitations established on the basis of subsection (a)(1)(B) of this section, a permit may not be renewed, reissued, or modified on the basis of effluent guidelines promulgated under section 304(b) subsequent to the original issuance of such permit, to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit. In the case of effluent limitations established on the basis of section 301(b)(1)(C) or section 303 (d) or (e), a permit may not be renewed, reissued, or modified to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit except in compliance with section 303(d)(4).

"(2) Exceptions.—A permit with respect to which paragraph (1) applies may be renewed, reissued, or modified to contain a less stringent effluent limitation applicable to a pollutant if—

"(A) material and substantial alterations or additions to the permitted facility occurred after permit issuance which justify the application of a less stringent effluent limitation;

"(B)(i) information is available which was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and which would have justified the application of a less stringent effluent limitation at the time of permit issuance; or

"(ii) the Administrator determines that technical mistakes or mistaken interpretations of law were made in issuing the permit under subsection (a)(1)(B);

"(C) a less stringent effluent limitation is necessary because of events over which the permittee has no control and for which there is no reasonably available remedy;

"(D) the permittee has received a permit modification under section 301(c), 301(g), 301(h), 301(i), 301(k), 301(n), or 316(a); or

"(E) the permittee has installed the treatment facilities required to meet the effluent limitations in the previous permit and has properly operated and maintained the facilities but has nevertheless been unable to achieve the previous effluent limitations, in which case the limitations in the reviewed, reissued, or modified permit may reflect the level of pollutant control actually achieved (but shall not be less stringent than required by effluent guidelines in effect at the time of permit renewal, reissuance, or modification).

Subparagraph (B) shall not apply to any revised waste load allocations or any alternative grounds for translating water quality standards into effluent limitations, except where the cumulative effect of such revised allocations results in a decrease in the amount of pollutants discharged into the concerned waters, and such revised allocations are not the result of a discharger eliminating or substantially reducing its discharge of pollutants due to complying with the requirements of this Act or for reasons otherwise unrelated to water quality.

"(3) Limitations.—In no event may a permit with respect to which paragraph (1) applies be renewed, reissued, or modified to contain an effluent limitation which is less stringent than required by effluent guidelines in effect at the time the permit is renewed, reissued, or modified. In no event may such a permit to discharge into waters be renewed, reissued, or modified to contain a less stringent effluent limitation if the implementation of such limitation would result in a violation of a water quality standard under section 303 applicable to such waters.".

(b) Limitations on Revision of Certain Effluent Limitations.—Section 303(d) of the Act is amended by adding at the end thereof the following new paragraph:

"(4) Limitations on revision of certain effluent limitations.—

"(A) Standard not attained.—For waters identified under paragraph (1)(A) where the applicable water quality standard has not yet been attained, any effluent limitation based on a total maximum daily load or other waste load allocation established under this section may be revised only if (i) the cumulative effect of all such revised effluent limitations based on such total maximum daily load or waste load allocation will assure the attainment of such water quality standard, or (ii) the designated use which is not being attained is removed in accordance with regulations established under this section.

"(B) Standard attained.—For waters identified under paragraph (1)(A) where the quality of such waters equals or exceeds levels necessary to protect the designated use for such waters or otherwise required by applicable water quality standards, any effluent limitation based on a total maximum daily load or other waste load allocation established under this section, or any water quality standard established under this section, or any other permitting standard may be revised only if such revision is subject to and consistent with the antidegradation policy established under this section.".

(c) Study.—The Administrator shall study—

(1) the extent to which States have reviewed, revised, and adopted water quality standards in accordance with section 24 of the Municipal Wastewater Treatment Construction Grant Amendments of 1981; and

(2) the extent to which modifications of permits issued under section 402(a)(1)(B) of the Federal Water Pollution Control Act for the purpose of reflecting any revisions to water quality standards should be encouraged or discouraged.

The Administrator shall submit a report on such study, together with recommendations, to Congress not later than 2 years after the date of the enactment of this Act.

(d) Conforming Amendment.—Section 402(a)(1) is amended by inserting "(A)" after "either" and by inserting "(B)" after "this Act, or".

SEC. 405. MUNICIPAL AND INDUSTRIAL STORMWATER DISCHARGES.

(a) Section 402 is amended by adding at the end thereof the following new subsection:

"(p) Municipal and Industrial Stormwater Discharges.—

"(1) General rule.—Prior to October 1, 1992, the Administrator or the State (in the case of a permit program approved under section 402 of this Act) shall not require a permit under this section for discharges composed entirely of stormwater.

"(2) Exceptions.—Paragraph (1) shall not apply with respect to the following stormwater discharges:

"(A) A discharge with respect to which a permit has been issued under this section before the date of the enactment of this subsection.

"(B) A discharge associated with industrial activity.

"(C) A discharge from a municipal separate storm sewer system serving a population of 250,000 or more.

"(D) A discharge from a municipal separate storm sewer system serving a population of 100,000 or more but less than 250,000.

"(E) A discharge for which the Administrator or the State, as the case may be, determines that the stormwater discharge contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States.

"(3) Permit requirements.—

"(A) Industrial discharges.—Permits for discharges associated with industrial activity shall meet all applicable provisions of this section and section 301.

"(B) Municipal discharge.—Permits for discharges from municipal storm sewers—

"(i) may be issued on a system- or jurisdiction-wide basis;

"(ii) shall include a requirement to effectively prohibit non-stormwater discharges into the storm sewers; and

"(iii) shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants.

"(4) Permit application requirements.—

"(A) Industrial and large municipal discharges.—Not later than 2 years after the date of the enactment of this subsection, the Administrator shall establish regulations setting forth the permit application requirements for stormwater discharges described in paragraphs (2)(B) and (2)(C). Applications for permits for such discharges shall be filed no later than 3 years after such date of enactment. Not later than 4 years after such date of enactment, the Administrator or the State, as the case may be, shall issue or deny each such permit. Any such permit shall provide for compliance as expeditiously as practicable, but in no event later than 3 years after the date of issuance of such permit.

"(B) Other municipal discharges.—Not later than 4 years after the date of the enactment of this subsection, the Administrator shall establish regulations setting forth the permit application requirements for stormwater discharges described in paragraph (2)(D). Applications for permits for such discharges shall be filed no later than 5 years after such date of enactment. Not later than 6 years after such date of enactment, the Administrator or the State, as the case may be, shall issue or deny each such permit. Any such permit shall provide for compliance as expeditiously as practicable, but in no event later than 3 years after the date of issuance of such permit.

"(5) Studies.—The Administrator, in consultation with the States, shall conduct a study for the purposes of—

"(A) identifying those stormwater discharges or classes of stormwater discharges for which permits are not required pursuant to paragraphs (1) and (2) of this subsection,

"(B) determining, to the maximum extent practicable, the nature and extent of pollutants in such discharges; and

"(C) establishing procedures and methods to control stormwater discharges to the extent necessary to mitigate impacts on water quality.

Not later than October 1, 1988, the Administrator shall submit to Congress a report on the results of the study described in subparagraphs (A) and (B). Not later than October 1, 1989, the Administrator shall submit to Congress a report on the results of the study described in subparagraph (C).

"(6) Regulations.—Not later than October 1, 1992, the Administrator, in consultation with State and local officials, shall issue regulations (based on the results of the studies conducted under paragraph (5)) which designate stormwater discharges, other than those discharges described in paragraph (2), to be regulated to protect water quality and shall establish a comprehensive program to regulate such designated sources. The program shall, at a minimum, (A) establish priorities, (B) establish requirements for State stormwater management programs, and (C) establish expeditious deadlines. The program may include performance standards, guidelines, guidance, and management practices and treatment requirements, as appropriate.".

SEC. 406. SEWAGE SLUDGE.

(a) Identification and Regulation of Toxic Pollutants.—Section 405(d) is amended—

(1) by inserting "(1) Regulations.—" before "The Administrator, after";

(2) by striking "(1)", "(2)", and "(3)" and inserting in lieu thereof "(A)", "(B)", and "(C)", respectively; and

(3) by adding at the end the following new paragraphs:

"(2) Identification and regulation of toxic pollutants.—

"(A) On basis of available information.—

"(i) Proposed regulations.—Not later than November 30, 1986, the Administrator shall identify those toxic pollutants which, on the basis of available information on their toxicity, persistence, concentration, mobility, or potential for exposure, may be present in sewage sludge in concentrations which may adversely affect public health or the environment, and propose regulations specifying acceptable management practices for sewage sludge containing each such toxic pollutant and establishing numerical limitations for each such pollutant for each use identified under paragraph (1)(A).

"(ii) Final regulations.—Not later than August 31, 1987, and after opportunity for public hearing, the Administrator shall promulgate the regulations required by subparagraph (A)(i).

"(B) Others.—

"(i) Proposed regulations.—Not later than July 31, 1987, the Administrator shall identify those toxic pollutants not identified under subparagraph (A)(i) which may be present in sewage sludge in concentrations which may adversely affect public health or the environment, and propose regulations specifying acceptable management practices for sewage sludge containing each such toxic pollutant and establishing numerical limitations for each pollutant for each such use identified under paragraph (1)(A).

"(ii) Final regulations.—Not later than June 15, 1988, the Administrator shall promulgate the regulations required by subparagraph (B)(i).

"(C) Review.—From time to time, but not less often than every 2 years, the Administrator shall review the regulations promulgated under this paragraph for the purpose of identifying additional toxic pollutants and promulgating regulations for such pollutants consistent with the requirements of this paragraph.

"(D) Minimum standards; compliance date.—The management practices and numerical criteria established under subparagraphs (A), (B), and (C) shall be adequate to protect public health and the environment from any reasonably anticipated adverse effects of each pollutant. Such regulations shall require compliance as expeditiously as practicable but in no case later than 12 months after their publication, unless such regulations require the construction of new pollution control facilities, in which case the regulations shall require compliance as expeditiously as practicable but in no case later than two years from the date of their publication.

"(3) Alternative standards.—For purposes of this subsection, if, in the judgment of the Administrator, it is not feasible to prescribe or enforce a numerical limitation for a pollutant identified under paragraph (2), the Administrator may instead promulgate a design, equipment, management practice, or operational standard, or combination thereof, which in the Administrator's judgment is adequate to protect public health and the environment from any reasonably anticipated adverse effects of such pollutant. In the event the Administrator promulgates a design or equipment standard under this subsection, the Administrator shall include as part of such standard such requirements as will assure the proper operation and maintenance of any such element of design or equipment.

"(4) Conditions on permits.—Prior to the promulgation of the regulations required by paragraphs (2), the Administrator shall impose conditions in permits issued to publicly owned treatment works under section 402 of this Act or take such other measures as the Administrator deems appropriate to protect public health and the environment from any adverse effects which may occur from toxic pollutants in sewage sludge.

"(5) Limitation on statutory construction.—Nothing in this section is intended to waive more stringent requirements established by this Act or any other law.".

(b) Manner of Sludge Disposal.—Section 405(e) is amended to read as follows:

"(e) Manner of Sludge Disposal.—The determination of the manner of disposal or use of sludge is a local determination, except that it shall be unlawful for any person to dispose of sludge from a publicly owned treatment works or any other treatment works treating domestic sewage for any use for which regulations have been established pursuant to subsection (d) of this section, except in accordance with such regulations.".

(c) Implementation Through Permits.—Section 405 is further amended by adding at the end thereof the following:

"(f) Implementation of Regulations.—

"(1) Through section 402 permits.—Any permit issued under section 402 of this Act to a publicly owned treatment works or any other treatment works treating domestic sewage shall include requirements for the use and disposal of sludge that implement the regulations established pursuant to subsection (d) of this section, unless such requirements have been included in a permit issued under the appropriate provisions of subtitle C of the Solid Waste Disposal Act, part C of the Safe Drinking Water Act, the Marine Protection, Research and Sanctuaries Act of 1972, or the Clean Air Act, or under State permit programs approved by the Administrator, where the Administrator determines that such programs assure compliance with any applicable requirements of this section. Not later than December 15, 1986, the Administrator shall promulgate procedures for approval of State programs pursuant to this paragraph.

"(2) Through other permits.—In the case of a treatment works described in paragraph (1) that is not subject to section 402 of this Act and to which none of the other above listed permit programs nor approved State permit authority apply, the Administrator may issue a permit to such treatment works solely to impose requirements for the use and disposal of sludge that implement the regulations established pursuant to subsection (d) of this section. The Administrator shall include in the permit appropriate requirements to assure compliance with the regulations established pursuant to subsection (d) of this section. The Administrator shall establish procedures for issuing permits pursuant to this paragraph.

"(g) Studies and Projects.—

"(1) Grant program; information gathering.—The Administrator is authorized to conduct or initiate scientific studies, demonstration projects, and public information and education projects which are designed to promote the safe and beneficial management or use of sewage sludge for such purposes as aiding the restoration of abandoned mine sites, conditioning soil for parks and recreation areas, agricultural and horticultural uses, and other beneficial purposes. For the purposes of carrying out this subsection, the Administrator may make grants to State water pollution control agencies, other public or nonprofit agencies, institutions, organizations, and individuals. In cooperation with other Federal departments and agencies, other public and private agencies, institutions, and organizations, the Administrator is authorized to collect and disseminate information pertaining to the safe and beneficial use of sewage sludge.

"(2) Authorization of Appropriations.—For the purposes of carrying out the scientific studies, demonstration projects, and public information and education projects authorized in this section, there is authorized to be appropriated for fiscal years beginning after September 30, 1986, not to exceed $5,000,000.".

(d) Enforcement.—(1) Section 308(a)(4) is amended by inserting "405," before "and 504".

(2) Section 505(f) is amended by striking out "or" before "(6)", and by inserting before the period "; or (7) a regulation under section 405(d) of this Act,".

(3) Section 509(b)(1)(E) is amended by striking out "or 306" and inserting in lieu thereof "306, or 405".

(e) Removal Credits.—The part of the decision of Natural Resources Defense Council, Inc. v. U.S. Environmental Protection Agency, No. 84-3530 (3d. Cir. 1986), which addresses section 405(d) of the Federal Water Pollution Control Act is stayed until August 31, 1987, with respect to—

(1) those publicly owned treatment works the owner or operator of which received authority to revise pretreatment requirements under section 307(b)(1) of such Act before the date of the enactment of this section, and

(2) those publicly owned treatment works the owner or operator of which has submitted an application for authority to revise pretreatment requirements under such section 307(b)(1) which application is pending on such date of enactment and is approved before August 31, 1987.

The Administrator shall not authorize any other removal credits under such Act until the Administrator issues the regulations required by paragraph (2)(A)(ii) of section 405(d) of such Act, as amended by subsection (a) of this section.

(f) Conforming Amendments.—Section 405(d) is further amended—

(1) by inserting "Regulations.—" after "(d)";

(2) by indenting paragraph (1) (as designated by subsection (a)(1) of this section) and aligning such paragraph with paragraph (3), as added by subsection (a)(3); and

(3) in such paragraph (1) by aligning subparagraphs (A), (B), and (C) (as designated by subsection (a)(2) of this section) with subparagraph (C) of paragraph (2), as added by subsection (a)(3) of this section.

SEC. 447. LOG TRANSFER FACILITIES.

(a) Agreement.—The Administrator and Secretary of the Army shall enter into an agreement regarding coordination of permitting for log transfer facilities to designate a lead agency and to process permits required under sections 402 and 404 of the Federal Water Pollution Control Act, where both such sections apply, for discharges associated with the construction and operation of log transfer facilities. The Administrator and Secretary are authorized to act in accordance with the terms of such agreement to assure that, to the maximum extent practicable, duplication, needless paperwork and delay in the issuance of permits, and inequitable enforcement between and among facilities in different States, shall be eliminated.

(b) Applications and Permits Before October 22, 1985.—Where both of sections 402 and 404 of the Federal Water Pollution Control Act apply, log transfer facilities which have received a permit under section 404 of such Act before October 22, 1985, shall not be required to submit a new application for a permit under section 402 of such Act. If the Administrator determines that the terms of a permit issued on or before October 22, 1985, under section 404 of such Act satisfies the applicable requirements of sections 301, 302, 306, 307, 308, and 403 of such Act, a separate application for a permit under section 402 of such Act shall not thereafter be required. In any case where the Administrator demonstrates, after an opportunity for a hearing, that the terms of a permit issued on or before October 22, 1985, under section 404 of such Act do not satisfy the applicable requirements of sections 301, 302, 306, 307, 308, and 403 of such Act, modifications to the existing permit under section 404 of such Act to incorporate such applicable requirements shall be issued by the Administrator as an alternative to issuance of a separate new permit under section 402 of such Act.

(c) Log Transfer Facility Defined.—For the purposes of this section, the term "log transfer facility" means a facility which is constructed in whole or in part in waters of the United States and which is utilized for the purpose of transferring commercially harvested logs to or from a vessel or log raft, including the formation of a log raft.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. AUDITS.

Section 501(d) is amended by inserting at the end the following new sentences: "For the purpose of carrying out audits and examinations with respect to recipients of Federal assistance under this Act, the Administrator is authorized to enter into noncompetitive procurement contracts with independent State audit organizations, consistent with chapter 75 of title 31, United States Code. Such contracts may only be entered into to the extent and in such amounts as may be provided in advance in appropriation Acts.".

SEC. 502. COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.

(a) Defined as a State.—Section 502(3) is amended by inserting "the Commonwealth of the Northern Mariana Islands," after "Samoa,".

(b) Defined as Part of United States.—Section 311(a)(5) is amended by striking out "the Canal Zone," and inserting in lieu thereof "the Commonwealth of the Northern Mariana Islands,".

SEC. 503. AGRICULTURAL STORMWATER DISCHARGES.

Section 502(14) (relating to the definition of point source) is amended by inserting after "does not include" the following: "agricultural stormwater discharges and".

SEC. 504. PROTECTION OF INTERESTS OF UNITED STATES IN CITIZEN SUITS.

Section 505(c) is amended by adding at the end thereof the following new paragraph:

"(3) Protection of Interests of United States.—Whenever any action is brought under this section in a court of the United States, the plaintiff shall serve a copy of the complaint on the Attorney General and the Administrator. No consent judgment shall be entered in an action in which the United States is not a party prior to 45 days following the receipt of a copy of the proposed consent judgment by the Attorney General and the Administrator.".

SEC. 505. JUDICIAL REVIEW AND AWARD OF FEES.

(a) Location; Deadline for Appeal.—Section 509(b)(1) is amended—

(1) by striking out "transacts such business" and inserting in lieu thereof, "transacts business which is directly affected by such action"; and

(2) by striking out "ninety" and "ninetieth" and inserting in lieu thereof "120" and "120th", respectively.

(b) Venue; Award of Fees.—Section 509(b) is amended by adding at the end thereof the following new paragraphs:

"(3) Venue.—

"(A) Selection procedure.—If applications for review of the same agency action have been filed under paragraph (1) of this subsection in 2 or more Circuit Courts of Appeals of the United States and the Administrator has received written notice of the filing of one or more applications within 30 days or less after receiving written notice of the filing of the first application, then the Administrator shall promptly advise in writing the Administrative Office of the United States Courts that applications have been filed in 2 or more Circuit Courts of Appeals of the United States, and shall identify each court for which he has written notice that such applications have been filed within 30 days or less of receiving written notice of the filing of the first such application. Pursuant to a system of random selection devised for this purpose, the Administrative Office thereupon shall, within 3 business days of receiving such written notice from the Administrator, select the court in which the record shall be filed from among those identified by the Administrator. Upon notification of such selection, the Administrator shall promptly file the record in such court. For the purpose of review of agency action which has previously been remanded to the Administrator, the record shall be filed in the Circuit Court of Appeals of the United States which remanded such action.

"(B) Administrative provisions.—Where applications have been filed under paragraph (1) of this subsection in two or more Circuit Courts of Appeals of the United States with respect to the same agency action and the record has been filed in one of such courts pursuant to subparagraph (A), the other courts in which such applications have been filed shall promptly transfer such applications to the Circuit Court of Appeals of the United States in which the record has been filed. Pending selection of a court pursuant to subparagraph (A), any court in which an application has been filed under paragraph (1) of this subsection may postpone the effective date of the agency action until 15 days after the Administrative Office has selected the court in which the record shall be filed.

"(C) Transfers.—Any court in which an application with respect to any agency action has been filed under paragraph (1) of this subsection, including any court selected pursuant to subparagraph (A), may transfer such application to any other Circuit Court of Appeals of the United States for the convenience of the parties or otherwise in the interest of justice.

"(4) Award of fees.—In any judicial proceeding under this subsection, the court may award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing or substantially prevailing party whenever it determines that such award is appropriate.".

(c) Conforming Amendment for Citizen Suit Actions.—The first sentence of section 505(d) is amended by inserting "prevailing or substantially prevailing" before "party".

SEC. 506. INDIAN TRIBES.

Title V is amended by redesignating section 518, and any references thereto, as section 519 and by inserting after section 517 the following new section:

"SEC. 518. INDIAN TRIBES.

"(a) Policy.—Nothing in this section shall be construed to affect the application of section 101(g) of this Act, and all of the provisions of this section shall be carried out in accordance with the provisions of such section 101(g). Indian tribes shall be treated as States for purposes of such section 101(g).

"(b) Assessment of Sewage Treatment Needs; Report.—The Administrator, in cooperation with the Director of the Indian Health Service, shall assess the need for sewage treatment works to serve Indian tribes, the degree to which such needs will be met through funds allotted to States under section 205 of this Act and priority lists under section 216 of this Act, and any obstacles which prevent such needs from being met. Not later than one year after the date of the enactment of this section, the Administrator shall submit a report to Congress on the assessment under this subsection, along with recommendations specifying (1) how the Administrator intends to provide assistance to Indian tribes to develop waste treatment management plans and to construct treatment works under this Act, and (2) methods by which the participation in and administration of programs under this Act by Indian tribes can be maximized.

"(c) Reservation of Funds.—The Administrator shall reserve each fiscal year beginning after September 30, 1986, before allotments to the States under section 205(e), one-half of one percent of the sums appropriated under section 207. Sums reserved under this subsection shall be available only for grants for the development of waste treatment management plans and for the construction of sewage treatment works to serve Indian tribes.

"(d) Cooperative Agreements.—In order to ensure the consistent implementation of the requirements of this Act, an Indian tribe and the State or States in which the lands of such tribe are located may enter into a cooperative agreement, subject to the review and approval of the Administrator, to jointly plan and administer the requirements of this Act.

"(e) Treatment as States.—The Administrator is authorized to treat an Indian tribe as a State for purposes of title II and sections 104, 106, 303, 305, 308, 309, 314, 319, 401, 402, and 404 of this Act to the degree necessary to carry out the objectives of this section, but only if—

"(1) the Indian tribe has a governing body carrying out substantial governmental duties and powers;

"(2) the functions to be exercised by the Indian tribe pertain to the management and protection of water resources which are held by an Indian tribe, held by the United States in trust for Indians, held by a member of an Indian tribe if such property interest is subject to a trust restriction on alienation, or otherwise within the borders of an Indian reservation; and

"(3) the Indian tribe is reasonably expected to be capable, in the Administrator's judgment, of carrying out the functions to be exercised in a manner consistent with the terms and purposes of this Act and of all applicable regulations.

Such treatment as a State may include the direct provision of funds reserved under subsection (c) to the governing bodies of Indian tribes, and the determination of priorities by Indian tribes, where not determined by the Administrator in cooperation with the Director of the Indian Health Service. The Administrator, in cooperation with the Director of the Indian Health Service, is authorized to make grants under title II of this Act in an amount not to exceed 100 percent of the cost of a project. Not later than 18 months after the date of the enactment of this section, the Administrator shall, in consultation with Indian tribes, promulgate final regulations which specify how Indian tribes shall be treated as States for purposes of this Act. The Administrator shall, in promulgating such regulations, consult affected States sharing common water bodies and provide a mechanism for the resolution of any unreasonable consequences that may arise as a result of differing water quality standards that may be set by States and Indian tribes located on common bodies of water. Such mechanism shall provide for explicit consideration of relevant factors including, but not limited to, the effects of differing water quality permit requirements on upstream and downstream dischargers, economic impacts, and present and historical uses and quality of the waters subject to such standards. Such mechanism should provide for the avoidance of such unreasonable consequences in a manner consistent with the objective of the Act.

"(f) Grants for Nonpoint Source Programs.—The Administrator shall make grants to an Indian tribe under section 319 of this Act as though such tribe was a State. Not more than one-third of one percent of the amount appropriated for any fiscal year under section 319 may be used to make grants under this subsection. In addition to the requirements of section 319, an Indian tribe shall be required to meet the requirements of paragraphs (1), (2), and (3) of subsection (d) of this section in order to receive such a grant.

"(g) Alaska Native Organizations.—No provision of this Act shall be construed to—

"(1) grant, enlarge, or diminish, or in any way affect the scope of the governmental authority, if any, of any Alaska Native organization, including any federally-recognized tribe, traditional Alaska Native council, or Native council organized pursuant to the Act of June 18, 1934 (48 Stat. 987), over lands or persons in Alaska;

"(2) create or validate any assertion by such organization or any form of governmental authority over lands or persons in Alaska; or

"(3) in any way affect any assertion that Indian country, as defined in section 1151 of title 18, United States Code, exists or does not exist in Alaska.

"(h) Definitions.—For purposes of this section, the term—

"(1) 'Federal Indian reservation' means all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation; and

"(2) 'Indian tribe' means any Indian tribe, band, group, or community recognized by the Secretary of the Interior and exercising governmental authority over a Federal Indian reservation.".

SEC. 507. DEFINITION OF POINT SOURCE.

For purposes of the Federal Water Pollution Control Act, the term "point source" includes a landfill leachate collection system.

SEC. 508. SPECIAL PROVISIONS REGARDING CERTAIN DUMPING SITES.

(a) Finding.—The Congress finds that the New York Bight Apex is no longer a suitable location for the ocean dumping of municipal sludge.

(b) General Rule.—Title I of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.) is further amended by inserting after section 104 the following new section:

"SPECIAL PROVISIONS REGARDING CERTAIN DUMPING SITES

"Sec. 104A. (a) New York Bight Apex.—(1) For purposes of this subsection:

"(A) The term 'Apex' means the New York Bight Apex consisting of the ocean waters of the Atlantic Ocean westward of 73 degrees 30 minutes west longitude and northward of 40 degrees 10 minutes north latitude.

"(B) The term 'Apex site' means that site within the Apex at which the dumping of municipal sludge occurred before October 1, 1983.

"(C) The term 'eligible authority' means any sewerage authority or other unit of State or local government that on November 2, 1983, was authorized under court order to dump municipal sludge at the Apex site.

"(2) No person may apply for a permit under this title in relation to the dumping of, or the transportation for purposes of dumping, municipal sludge within the Apex unless that person is an eligible authority.

"(3) The Administrator may not issue, or renew, any permit under this title that authorizes the dumping of, or the transportation for purposes of dumping, municipal sludge within the Apex after the earlier of—

"(A) December 15, 1987; or

"(B) the day determined by the Administrator to be the first day on which municipal sludge generated by eligible authorities can reasonably be dumped at a site designated under section 102 other than a site within the Apex.

"(b) Restriction on Use of the 106-Mile Site.—The Administrator may not issue or renew any permit under this title which authorizes any person, other than a person that is an eligible authority within the meaning of subsection (a)(1)(C), to dump, or to transport for the purposes of dumping, municipal sludge within the site designated under section 102(c) by the Administrator and known as the '106-Mile Ocean Waste Dump Site' (as described in 49 F.R. 19005).".

SEC. 509. OCEAN DISCHARGE RESEARCH PROJECTS.

(a) In General.—Notwithstanding any other provision of law, the Administrator is authorized to issue a research permit to the Orange County, California, Sanitation Districts for the discharge of preconditioned municipal sewage sludge into the ocean for the purpose of enabling research to be conducted in assessing and analyzing the effects of disposing of sewage sludge by pipeline into ocean waters—

(1) if the Administrator is satisfied that

such local governmental agency is actively pursuing long-term land-based options for the handling of its sludge with special emphasis on remote disposal alternatives set forth in the 1980 LA/OMA sludge management project and on reuse of sludge or use of recycled sludge; and

(2) if the Administrator determines that there is no likelihood of an unacceptable adverse effect on the environment as a result of issuance of such permit and that such permit would meet the requirements of paragraph (2) of section 301(h) of the Federal Water Pollution Control Act, as amended by this Act, and of the sentences following the first sentence of such section if such permit were being issued under such section.

(b) Permit Terms.— .

(1) Period.—The permit for the discharge of sludge shall be for a period of 5 years commencing on the date of such discharge and shall not be extended or renewed.

(2) Monitoring.—Such permit shall provide for monitoring (including whole effluent monitoring) of permitted discharges and other discharges into the ocean in the same area and the effects of such discharges (including cumulative effects) in conformance with requirements established by the Administrator, after consultation with appropriate Federal and State agencies, and for the reporting of such monitoring to Congress and the Administrator every 6 months.

(3) Volume of discharge.—Such permit shall provide that the volume of such local agency's sludge disposed of by such experimental pipeline shall be no more than one and one-half times that being disposed of by such remote disposal and alternatives for the reuse of sludge and the use of recycled sludge. In no event shall the agency dispose of more than 50 percent of its sludge by the pipeline.

(4) Termination.—The permit shall provide for termination of the permit if the Administrator determines that the disposal of sewage sludge is resulting in an unacceptable adverse impact on fish, shellfish, and wildlife. The Administrator may terminate a permit issued under this section if the Administrator determines that there has been a decline in ambient water quality of the receiving waters during the period of the permit even if a direct cause and effect relationship cannot be shown. If the effluent from a source with a permit issued under this section is contributing to a decline in ambient water quality of the receiving waters, the Administrator shall terminate such permit.

(c) Limitation on Precedence.—The facts and circumstances described in subsection (a) present a unique situation which will not establish a precedent for the relaxation of the requirements of the Federal Water Pollution Control Act applicable to similarly situated discharges.

(d) Report.—Such districts shall report the results of the program and an analysis of such program to Congress under this section not later than four and one-half years after issuance of the permit.

SEC. 510. LIMITATION ON DISCHARGE OF RAW SEWAGE BY NEW YORK CITY.

(a) In General.—

(1) North river plant.—If the wastewater treatment plant identified in the consent decree as the North River plant has not achieved advanced preliminary treatment as required under the terms of the consent decree by August 1, 1986, the city of New York shall not discharge raw sewage from the drainage area of such plant (as defined in the consent decree) into navigable waters after such date in an amount which is greater for any 30-day period than an amount equal to 30 times the average daily amount of raw sewage discharged from such drainage area during the 12-month period ending on the earlier of the date on which such plant becomes operational or March 15, 1986 (as determined by the Administrator), except as provided in subsection (b).

(2) Red hook plant.—If the wastewater treatment plant identified in the consent decree as the Red Hook plant has not achieved advanced preliminary treatment as required under the terms of the consent decree by August 1, 1987, the city of New York shall not discharge raw sewage from the drainage area of such plant (as defined in the consent decree) into navigable waters after such date in an amount which is greater for any 30-day period than an amount equal to 30 times the average daily amount of raw sewage discharged from such drainage area during the 12-month period ending on the earlier of the date on which such plant becomes operational or March 15, 1987 (as determined by the Administrator), except as provided in subsection (b).

(b) Waivers.—

(1) Interruption of plant operation.—In the event of any significant interruption in the operation of the North River plant or the Red Hook plant caused by an event described in subparagraph (A), (B), or (C) of paragraph (5) occurring after the applicable deadline established under subsection (a), the Administrator shall waive the limitation of subsection (a) with respect to such plant, but only to such extent and for such limited period of time as may be reasonably necessary for the city of New York to resume operation of such plant.

(2) Increased precipitation.—In the event that the volume of precipitation occurring after the applicable deadline established under subsection (a) causes the discharge of raw sewage to exceed the limitation under subsection (a), the Administrator shall waive the limitation of subsection (a) with respect to either or both such plants, but only to such extent and for such limited period of time as the Administrator determines to be necessary to take into account the increased discharge caused by such volume of precipitation.

(3) Variations in certain north river drainage area discharges.—In the event that an increase in discharges from the North River drainage area constituting a violation of subsection (a)(1) is due to a random or seasonal variation, and that any sewer hookup occurring, or permit for a sewer hookup granted, after July 31, 1986, is not responsible for such violation, the Administrator shall waive the limitation of subsection (a)(1), but only to such extent and for such limited period of time as the Administrator determines to be reasonably necessary to take into account such random or seasonal variation.

(4) Variations in certain red hook drainage area discharges.—In the event that an increase in discharges from the Red Hook drainage area constituting a violation of subsection (a)(2) is due to a random or seasonal variation, and that any sewer hookup occurring, or permit for a sewer hookup granted, after July 31, 1987, is not responsible for such violation, the Administrator shall waive the limitation of subsection (a)(2), but only to such extent and for such limited period of time as the Administrator determines to be reasonably necessary to

take into account such random or seasonal variation.

(5) Circumstances beyond city's control.—The Administrator shall extend either deadline under paragraph (1) or (2) of subsection (a) to such extent and for such limited period of time as may be reasonably required to take into account any—

(A) act of war,

(B) unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight, or

(C) other circumstances beyond the control of the city of New York, except such circumstances shall not include (i) the unavailability of Federal funds under section 201 of the Federal Water Pollution Control Act, (ii) the unavailability of funds from the city of New York or the State of New York, or (iii) a policy decision made by the city of New York or the State of New York to delay the achievement of advanced preliminary treatment at the North River plant or Red Hook plant beyond the applicable deadline set forth in subsection (a).

(c) Penalties.—Except as otherwise provided in subsection (b), any violation of subsection (a) shall be considered to be a violation of section 301 of the Federal Water Pollution Control Act, and all provisions of such Act relating to violations of such section 301 shall apply.

(d) Consent Decree Defined.—For purposes of this section, the term "consent decree" means the consent decree entered into by the Environmental Protection Agency, the city of New York, and the State of New York, on December 30, 1982, relating to construction and operation of the North River and Red Hook wastewater treatment plants.

(e) Cooperation.—The Administrator shall work with the city of New York to eliminate the discharge of raw sewage by such city at the earliest practicable date.

(f) Savings Clause.—Nothing in this section shall be construed as modifying the terms of the consent decree.

(g) Sense of Congress.—It is the sense of Congress that the Administrator should not agree to any further modification of the consent decree with respect to the schedule for achieving advanced preliminary treatment.

(h) Termination Dates.—

(1) North river plant.—The provisions of this section shall remain in effect with respect to the North River drainage area until such time as the North River plant has achieved advanced preliminary treatment (as defined in the consent decree) for a period of six consecutive months.

(2) Red hook plant.—The provisions of this section shall remain in effect with respect to the Red Hook drainage area until such time as the Red Hook plant has achieved advanced preliminary treatment (as defined in the consent decree) for a period of six consecutive months.

(i) Monitoring Activities.—The Administrator shall promptly establish and carry out a program within available funds to implement the monitoring activities which may be required under subsection (a).

(j) Establishment of Methodologies.—The Administrator shall establish the methodologies, data base, and any other information required for making determinations under subsection (b)—

(1) for the North River drainage area (as defined in the consent decree) by July 31, 1986, unless the requirements of subsection (h)(1) have been satisfied, and

(2) for the Red Hook drainage area (as defined by the consent decree) by July 31, 1987, unless the requirements of subsection (h)(2) have been satisfied.

(k) Violations.—In carrying out this section, if the Administrator finds that a violation of subsection (a) has occurred, the Administrator shall also determine, within 30 days after such finding, whether a provision of subsection (b) applies. If the Administrator requires information from the city of New York in order to determine whether a provision of subsection (b) applies, the Administrator shall request such information. If the city of New York does not supply the information requested by the Administrator, the Administrator shall determine that subsection (b) does not apply. The city of New York shall be responsible only for such expenses as are necessary to provide such requested information. Enforcement action pursuant to subsection (c) shall be commenced at the end of such 30 days unless a provision of subsection (b) applies.

SEC. 511. STUDY OF DE MINIMIS DISCHARGES.

(a) Study.—The Administrator shall conduct a study of discharges of pollutants into the navigable waters and their regulation under the Federal Water Pollution Control Act to determine whether or not there are discharges of pollutants into such waters in amounts which, in terms of volume, concentration, and type of pollutant, are not significant and to determine the most effective and appropriate methods of regulating any such discharges.

(b) Report.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall submit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of such study along with recommendations and findings concerning the most effective and appropriate methods of regulating any discharges of pollutants into the navigable waters in amounts which the Administrator determines under such study to be not significant.

SEC. 512. STUDY OF EFFECTIVENESS OF INNOVATIVE AND ALTERNATIVE PROCESSES AND TECHNIQUES.

(a) Effectiveness Study.—The Administrator shall study the effectiveness on waste treatment of innovative and alternative wastewater treatment processes and techniques referred to in section 201(g)(5) of the Federal Water Pollution Control Act which have been utilized in treatment works constructed under such Act. In conducting such study, the Administrator shall compile information, by State, on the types of such processes and techniques utilized, on the number of facilities constructed with such processes and techniques, and a description of such processes and techniques which have not performed to design standards. The Administrator shall also determine which States have not obligated the full amount set aside under section 205(i) of such Act for such processes and techniques and the reasons for each such State's failure to make such obligations.

(b) Report.—Not later than one year after the date of the enactment of this Act, the Administrator shall submit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of such study, along with recommendations for providing more effective incentives for innovative and alternative wastewater treatment processes and techniques.

SEC. 513. STUDY OF TESTING PROCEDURES.

(a) Study.—The Administrator shall study the testing procedures for analysis of pollutants established under section 304(h) of the Federal Water Pollution Control Act. Such study shall include, but not be limited to, an analysis of the adequacy and standardization of such procedures. In conducting the analysis of the standardization of such procedures, the Administrator shall consider the extent to which such procedures are consistent with comparable procedures established under other Federal laws.

(b) Report.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall submit a report on the results of the study conducted under this subsection, together with recommendations for modifying the test procedures referred to in subsection (a) to improve their effectiveness, to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate.

SEC. 514. STUDY OF PRETREATMENT OF TOXIC POLLUTANTS.

(a) Study.—The Administrator shall study—

(1) the adequacy of data on environmental impacts of toxic industrial pollutants discharged from publicly owned treatment works;

(2) the extent to which secondary treatment at publicly owned treatment works removes toxic pollutants;

(3) the capability of publicly owned treatment works to revise pretreatment requirements under section 307(b)(1) of the Federal Water Pollution Control Act;

(4) possible alternative regulatory strategies for protecting the operations of publicly owned treatment works from industrial discharges, and shall evaluate the extent to which each such strategy identified may be expected to achieve the goals of this Act;

(5) for each such alternative regulatory strategy, the extent to which removal of toxic pollutants by publicly owned treatment works results in contamination of sewage sludge and the extent to which pretreatment requirements may prevent such contamination or improve the ability of publicly owned treatment works to comply with sewage sludge criteria developed under section 405 of the Federal Water Pollution Control Act; and

(6) the adequacy of Federal, State, and local resources to establish, implement, and enforce multiple pretreatment limits for toxic pollutants for each such alternative strategy.

(b) Report.—Not later than 4 years after the date of the enactment of this Act, the Administrator shall submit a report on the results of such study along with recommendations for improving the effectiveness of pretreatment requirements to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate.

SEC. 515. STUDIES OF WATER POLLUTION PROBLEMS IN AQUIFERS.

(a) Studies.—The Administrator, in conjunction with State and local agencies and after providing an opportunity for full public participation, shall conduct studies for the purpose of identifying existing and potential point and nonpoint sources of pollution, and of identifying measures and practices necessary to control such sources of pollution, in the following ground water systems and aquifers:

(1) the ground water system of the Upper Santa Cruz Basin and the Avra-Altar Basin of Pima, Pinal, and Santa Cruz Counties, Arizona;

(2) the Spokane-Rathdrum Valley Aquifer, Washington and Idaho;

(3) the Nassau and Suffolk Counties Aquifer, New York;

(4) the Whidbey Island Aquifer, Washington;

(5) the Unconsolidated Quaternary Aquifer, Rockaway River area, New Jersey;

(6) contaminated ground water under Litchfield, Hartford, Fairfield, Tolland, and New Haven counties, Connecticut; and

(7) the Sparta Aquifer, Arkansas.

(b) Reports.—Not later than 2 years after the date of the enactment of this Act, the Administrator shall submit to Congress a report on the studies conducted under this section.

(c) Authorization of Appropriations.—There is authorized to be appropriated $7,000,000 for fiscal years beginning after September 30, 1986, to carry out this section.

SEC. 516. GREAT LAKES CONSUMPTIVE USE STUDY.

(a) Study of Consumptive Uses.—In recognition of the serious impacts on the Great Lakes environment that may occur as a result of increased consumption of Great Lakes water, including loss of wetlands and reduction of fish spawning and habitat areas, as well as serious economic losses to vital Great Lakes industries, and in recognition of the national goal to provide environmental protection and preservation of our natural resources while allowing for continued economic growth, the Secretary of the Army in cooperation with the Administrator, other interested departments, agencies, and instrumentalities of the United States, and the 8 Great Lakes States, is authorized to conduct a study of the effects of Great Lakes water consumption on economic growth and environmental quality in the Great Lakes region and of control measures that can be implemented to reduce the quantity of water consumed.

(b) Matters Included.—The study authorized by this section shall at a minimum include the following:

(1) a review of the methodologies used to forecast Great Lakes consumptive uses, including an analysis of the sensitivity of key variables affecting such uses;

(2) an analysis of the effect that enforcement of provisions of the Federal Water Pollution Control Act relating to thermal discharges has had on consumption of Great Lakes water;

(3) an analysis of the effect of laws, regulations, and national policy objectives on consumptive uses of Great Lakes water used in manufacturing;

(4) an analysis of the associated environmental impacts and of the economic effects on industry and other interests in the Great Lakes region associated with individual consumptive use control strategies; and

(5) a summary discussion containing recommendations for methods of controlling consumptive uses which methods maximize

benefits to the Great Lakes ecosystem and also provide for continued full economic growth for consuming industries as well as other industries which depend on the use of Great Lakes water.

(c) GREAT LAKES STATES DEFINED.—For purposes of this section, the term "Great Lakes States" means Minnesota, Wisconsin, Illinois, Ohio, Michigan, Indiana, Pennsylvania, and New York.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal years beginning after September 30, 1986, $750,000 to carry out this section. Sums appropriated under this section shall remain available until expended.

SEC. 517. SULFIDE CORROSION STUDY.

(a) STUDY.—The Administrator shall conduct a study of the corrosive effects of sulfides in collection and treatment systems, the extent to which the uniform imposition of categorical pretreatment standards will exacerbate such effects, and the range of available options to deal with such effects.

(b) CONSULTATION.—The study required by this section shall be conducted in consultation with the Los Angeles City and County sanitation agencies.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall submit a report on the results of the study, together with recommendations for measures to reduce the corrosion of treatment works, to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,000,000 to carry out this section for fiscal years beginning after September 30, 1986.

SEC. 518. STUDY OF RAINFALL INDUCED INFILTRATION INTO SEWER SYSTEMS.

(a) STUDY.—The Administrator shall study problems associated with rainfall induced infiltration into wastewater treatment sewer systems. As part of such study, the Administrator shall study appropriate methods of regulating rainfall induced infiltration into the sewer system of the East Bay Municipal Utility District, California.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Administrator shall submit to Congress a report on the results of such study, along with recommendations on reasonable methods to reduce such infiltration.

SEC. 519. DAM WATER QUALITY STUDY.

The Administrator, in cooperation with interested States and Federal agencies, shall study and monitor the effects on the quality of navigable waters attributable to the impoundment of water by dams. The results of such study shall be submitted to Congress not later than December 31, 1987.

SEC. 520. STUDY OF POLLUTION IN LAKE PEND OREILLE, IDAHO.

The Administrator shall conduct a comprehensive study of the sources of pollution in Lake Pend Oreille, Idaho, and the Clark Fork River and its tributaries, Idaho, Montana, and Washington, for the purpose of identifying the sources of such pollution. In conducting such study, the Administrator shall consider existing studies, surveys, and test results concerning such pollution. The Administrator shall report to Congress the findings and recommendations concerning the study conducted under this section.

SEC. 521. SAN DIEGO, CALIFORNIA.

(a) PURPOSE.—The purpose of this section is to protect the economy, public health, environment, surface water and public beaches, and water quality of the city of San Diego, California, and surrounding areas, which are endangered and are being polluted by raw sewage emanating from the city of Tijuana, Mexico.

(b) CONSTRUCTION GRANTS.—Upon approval of the necessary plans and specifications, the Administrator is authorized to make grants to the Secretary of State, acting through the American Section of the International Boundary and Water Commission (hereinafter in this section referred to as the "Commission"), or any other Federal agency or any other appropriate commission or entity designated by the President. Such grants shall be for construction of a project consisting of—

(1) defensive treatment works to protect the residents of the city of San Diego, California, and surrounding areas from pollution resulting from any inadequacies or breakdowns in wastewater treatment works and systems in Mexico; and

(2) treatment works in the city of San Diego, California, to provide primary or more advanced treatment of municipal sewage and industrial waste from Mexico, including the city of Tijuana, Mexico.

(c) LIMITATION ON GRANTS.—Notwithstanding subsection (b), the Administrator may make grants for construction of treatment works described in subsection (b)(2) only if, after public notice and comment, the Administrator determines that treatment works in Mexico, in conjunction with any defensive treatment works constructed under this or any other Act, are not sufficient to protect the residents of the city of San Diego, California, and surrounding areas from water pollution originating in Mexico.

(d) OPERATION AND MAINTENANCE.—The Commission or such other agency, commission, or entity as may be designated under subsection (b) is authorized to operate and maintain any treatment works constructed under subsection (b) in order to accomplish the purposes of this section.

(e) APPROVAL OF PLANS.—Any treatment works for which a grant is made under this section shall be constructed in accordance with plans developed by the Commission or such other agency, commission, or entity as may be designated under subsection (b), in consultation with the city of San Diego, and approved by the Administrator to meet the construction standards which would be applicable if such treatment works were being constructed under title II of the Federal Water Pollution Control Act.

(f) FEDERAL SHARE.—Construction of the treatment works under subsection (b) shall be at full Federal expense less any costs paid by the State of California and less any costs paid by the Government of Mexico as a result of agreement negotigated with the United States.

(g) OCEAN OUTFALL PERMIT.—Notwithstanding section 301(j) of the Federal Water Pollution Control Act, upon application of the city of San Diego, California, the Administrator may issue a permit under section 301(h) of such Act which modifies the requirements of section 301(b)(1)(B) of such Act to permit the discharge of pollutants for any ocean outfall constructed with Federal assistance under this section if the Administrator finds that issuing such permit is in the best interests of achieving the goals and requirements of such Act. The Administrator may waive the requirements of section 301(h)(5) of such Act with respect to the issuance of such permit if the Administrator finds that such waiver is in the best interests of achieving the goals and requirements of such Act.

(h) Treatment of San Diego Sewage.—If any treatment works constructed pursuant to this section becomes no longer necessary to provide protection from pollution originating in Mexico, the city of San Diego, California, may use such treatment works to treat municipal and individual waste originating in the city of San Diego and surrounding areas if the city of San Diego enters into a binding agreement with the Administrator to pay to the United States 45 percent of the costs incurred in the construction of such treatment works.

(i) Definition.—For purposes of this section, the terms "construction" and "treatment works" have the meanings such terms have under section 212 of the Federal Water Pollution Control Act.

(j) Authorization of Appropriations.—There is authorized to be appropriated for fiscal years beginning after September 30, 1986, such sums as may be necessary to the Administrator to make grants under this section and such sums as may be necessary to the Commission or such other agency, commission, or entity as the President may designate under subsection (b), to carry out this section.

SEC. 522. OAKWOOD BEACH AND RED HOOK PROJECTS, NEW YORK.

(a) Relocation of Natural Gas Facilities.—Notwithstanding any provision of the Federal Water Pollution Control Act, the Administrator shall pay, to the extent provided in appropriation Acts, in the same proportion as the Federal share of other project costs, all expenses for the relocation of facilities for the distribution of natural gas with respect to the entire wastewater treatment works known as the Oakwood Beach (EPA Grant Numbered 360392) and Red Hook (EPA Grant Numbered 360394) projects, New York.

(b) Authorization of Appropriations.—There is authorized to be appropriated for fiscal years beginning after September 30, 1986, not to exceed $7,000,000 to carry out this section.

SEC. 523. BOSTON HARBOR AND ADJACENT WATERS.

(a) Grants.—The Administrator shall make grants to the Massachusetts Water Resource Authority for purposes of—

(1) assessing the principal factors having an adverse effect on the environmental quality of Boston Harbor and its adjacent waters;

(2) developing and implementing a management program to improve the water quality of such Harbor and waters; and

(3) constructing necessary waste water treatment works for providing secondary treatment for the areas served by such authority.

(b) Federal Share.—The Federal share of projects described in subsection (a) shall not exceed 75 percent of the cost of construction thereof.

(c) Emergency Improvements.—The Administrator is authorized and directed to make grants to the Massachusetts Water Resource Authority for a project to undertake emergency improvements at the Deer Island Waste Water Treatment Plant in Boston, Massachusetts. The Federal share of such project shall not exceed 75 percent of the cost of carrying out such improvements.

(d) Authorization of Appropriations.—There is authorized to be appropriated $100,000,000 to carry out this section for fiscal years beginning after September 30, 1986, to remain available until expended. Such sums shall be in addition to and not in lieu of any other amounts authorized to be appropriated under title II of the Federal Water Pollution Control Act.

SEC. 524. WASTEWATER RECLAMATION DEMONSTRATION.

(a) Authority to Make Grants.—The Administrator is authorized to make a grant to the San Diego Water Reclamation Agency, California, to demonstrate and field test for public use innovative processes which advance the technology of wastewater reclamation and which promote the use of reclaimed wastewater.

(b) Federal Share.—The Federal share of grants made under this section shall be 85 percent of the costs of conducting such demonstration and field test.

(c) Authorization of Appropriations.—There is authorized to be appropriated not to exceed $2,000,000 to carry out this section for fiscal years beginning after September 30, 1986.

SEC. 525. DES MOINES, IOWA.

(a) Grant.—The Administrator is authorized to make a grant to the City of Des Moines, Iowa, for construction of the Central Sewage Treatment Plant component of the Des Moines, Iowa, metropolitan area project. The Federal share of such project shall be 75 percent of the cost of construction.

(b) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section not to exceed $50,000,000 for fiscal years beginning after September 30, 1986. Such sums shall be in addition to and not in lieu of any other amounts authorized to be appropriated under title II of the Federal Water Pollution Control Act.

SEC. 526. STUDY OF De MINIMIS DISCHARGES.

(a) Study.—The Administrator shall conduct a study of discharges of pollutants into the navigable waters and their regulation under the Federal Pollution Control Act to determine whether or not there are discharges of pollutants into such waters in amounts which, in terms of volume, concentration, and type of pollutant, are not significant and to determine the most effective and appropriate methods of regulating any such discharges.

(b) Report.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall submit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of such study along with recommendations and findings concerning the most effective and appropriate methods of regulating any discharges of pollutants into the navigable waters in amounts which the Administrator determines under such study to be not significant.

WATER QUALITY ACT OF 1987

The PRESIDING OFFICER. The Senate will now resume consideration of the unfinished business, H.R. 1, which the clerk will report.

The legislative clerk read as follows:

> A bill (H.R. 1) to amend the Federal Water Pollution Control Act to provide for the renewal of the quality of the Nation's waters, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. Time for debate on this bill is limited to 3 hours to be equally divided and controlled by the majority and minority leaders or their designees.

Mr. BYRD. Mr. President, under the order, the two leaders or their designees having control of time for debate on this measure, I designate Mr. MITCHELL to control my time.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MITCHELL. Mr. President, I rise in strong opposition to the substitute amendment, which I believe would weaken the Water Quality Act.

The proposed amendment would substitute a bill developed by the Reagan administration for the bill agreed to by a House-Senate conference committee and passed unanimously by both Houses of Congress late in the last session.

I repeat: unanimously. Every Member of Congress, House and Senate, Democrat or Republican, who voted on the clean water bill voted for it. That is the bill that is pending, and that is what the amendment seeks to replace.

We will hear a great deal about money in this debate. Much of our discussion will be about whether the funding level for assisting communities throughout this country in construction of sewage treatment facilities in our bill is too high or too low.

The primary difference between the bill approved by Congress last year and the administration bill is the authorization for assistance to communities for construction of sewage treatment plants. Our bill includes an authorization level of $18 billion over 9 years. The administration proposes a funding level of $12 billion.

There are several reasons to stick with the $18 billion figure in our bill.

First, the authorization level in our bill is small compared to the total cost of construction of needed facilities.

The EPA conducts a survey of national sewage treatment needs every 2 years. The 1984 Needs Survey identified total needs as $108 billion. This is the estimate of all treatment works needed by the design year of 2000. Of that, $60 billion was cited as the cost of construction for those portions of treatment projects eligible for Federal grant assistance.

The EPA is just now finishing its updated 1986 Needs Survey. This new survey indicates that total needs are somewhat smaller than estimated in 1984. The total need by the design year 2000 is around $75 billion, while the cost of grant eligible portions of projects is about $45 billion. I should note that a number of States have challenged this estimate as being too low.

But, more important, even this new estimate is still well above the funding level provided in our bill. If we were simply trying to provide for identified needs, a convincing case could be made that the authorization, in this bill should be dramatically increased rather than decreased.

We are not, however, simply trying to address needs. We sought an authorization level which was consistent with commitments we made in previous reauthorizations of the Clean Water Act and which was consistent with the need to control Federal spending—a need we all agree is imperative.

Mr. President, it is important in understanding this issue to look briefly at the history of the Federal Water Pollution Control Program, with specific reference to the change in the program that occurred early in this administration.

In 1948, the U.S. Government began, for the first time, a national program for control of pollution of our Nation's waters. The American people were disgusted by the fact that many major American rivers were not fit for swimming, fishing or boating. Indeed, in many cases, you could smell an American river before you could see it.

From 1948 to 1972, a modest Federal program existed to stem the tide of water pollution, with limited success.

In 1972, largely through the efforts of my predecessor, Senator Muskie, the Congress passed what is the modern version of the Clean Water Act, which significantly increased the Federal effort to prevent pollution of our Nation's waters. It also significantly increased our success in cleaning up our water. As a result of that initiative, the Federal investment in clean water rose dramatically, reaching a peak of $5 billion a year in 1979 and 1980.

The results are clear. They are there for every American to see. Every State in the Union has cleaned up many of its rivers and lakes. Americans can now fish and swim and boat and enjoy thousands of bodies of water in which they once could not do such things. Clean water has been one of the most successful and effective Federal programs ever instituted.

In 1981, shortly after taking office, the Reagan administration proposed that there be no further funding for this program. The President said to the Congress, in effect:

> I do not want any more money spent for clean water in this country unless you, the Congress, agree to reduce and reform the program.

The Senate Environment and Public Works Committee and the Congress responded to the President's request. We made an agreement with the Reagan administration at that time. We agreed to reduce and reform the program as the President had requested in return for an administration commitment to support an annual funding level for the program of $2.4 billion a year for a 10-year period.

At the President's request, we accepted annual authorizations well below the $5 billion in grant funds that had been authorized each in 1979 and in 1980, down all the way to $2.4 billion a year without any adjustment for inflation. So, in fact, the reduction in the amount authorized on an annual basis has been cut by more than half. We accepted a sharp reduction of the Federal share of project costs--that is, the amount of Federal funding for each of these projects—from 75 percent of the total project costs to 55 percent of the Federal project cost. And, finally, we agreed to narrow the types and portions of projects that were eligible for Federal funds; that is to say, certain portions of waste treatment projects which prior to 1981 had been eligible for partial Federal funding have since 1981 been ineligible for Federal funding and where constructed have to be financed wholly with State and local funds.

Now, in exchange for this reform and reduction in the program which was made at the direct and specific request of President Reagan, the President and his administration agreed to continue to support funding for the Clean Water Program for 10 years at a level of spending of $2.4 billion a year.

This agreement was publicly stated and well understood by the administration. At a public hearing of the Senate Environmental and Public Works Committee, the Administrator of the EPA, appointed by the President and the administration spokesman with respect to this program, said—and I emphasize this was a public hearing:

> There is an understanding that there is an agreement with the administration with Congress, that for 10 years this level of funding, at least, is a commitment. . . . We went down to $2.4 billion as a result of that commitment.

Those are the words of William Ruckelshaus, the Administrator of the EPA, speaking for the Reagan administration. And I repeat those words:

> There is an understanding that there is an agreement with the administration with Congress that for 10 years this level of funding at least is a commitment . . . We went down to $2.4 billion as a result of that commitment.

Those are the words of the President's spokesman on the issue. He said, "There is an understanding." He said, "There is an agreement." He said, "There is a commitment."

And so, when the President vetoed this bill last November, the day after the election, and when the administration presents the substitute amendment that is now pending before the Senate, those actions are a breach of that understanding. Those actions are a violation of that agreement. Those actions are a reneging on that commitment. The administration made an agreement, it made a commitment, and it is now breaking that agreement. It has reneged on that commitment.

Now, the administration comes up, after steadfastly working over the past 2 years, in violation of its own agreement, in attempting to terminate the program, and all of a sudden, at the very last moment, proposes an 8-year funding plan.

Is even this substantially reduced funding level an offer in good faith? Or will we, rather, find the administration proposing to terminate the program again next year or further reduce funding next year or the year after?

The most reliable indicator of future human behavior is past human behavior. And based on past performance on this issue, the Congress must consider it likely, if not certain, that there will in the near future be a renewed effort to terminate this program, no matter what assurances are made with respect to this amendment.

You cannot get any more specific than the administration saying "We make an agreement. We enter into an understanding. We make a commitment." And that is what they did with respect to the Clean Water Act, and they have now broken that. No words uttered on this Senate floor or by any member of the administration can give any Member of the Congress assurance that they will not be back, no matter what is said with respect to this new proposal for an 8-year program.

Now, the administration has called the $18-billion funding level too high and has appealed for what it calls a compromise. But the plain fact is we have already made substantial compromises. We compromised when we agreed to narrow the program and accept lower levels of funding in 1981 and in each year since then, we compromised when we proposed funding much less than the estimated needs. Our colleagues in the House compromised when they accepted the Senate funding authorization rather than the higher level in their bill.

The current bill is in fact a modest, responsible compromise between the very large costs of the many needed projects, on the one hand, and the need to control spending, on the other hand. Accepting this substitute would not be a compromise. It would be a failure of the Congress to meet its responsibility.

Mr. MITCHELL. At the same time that President Reagan is telling the American people that we cannot afford clean water, he has proposed a massive increase in foreign aid. In the budget he sent to Congress this month, the President proposes an increase of $1.7 billion in foreign aid, which would raise that foreign aid to a new high record level of $15 billion.

Thus, the President proposes to devote nearly $15 billion in 1 year to foreign aid, while Congress proposes to spend $18 billion over 9 years to clean up America's waters. And the President says Congress is the big spender, that we cannot afford money to pay to clean up American waters. At the same time he wants to increase by billions of dollars the amount of American taxpayers' money that will be distributed all over the world.

I do not believe that the President's priorities are the right priorities for America. I do not believe the American people share the President's priorities on this issue. They want clean water. They have said so over and over again. They favor our bill overwhelmingly.

Some of my colleagues may be under the impression because of the arguments made by the proponents of the substitute that the funding level in the administration bill is not really that much less than in our bill and should be accepted. Of course, if that were true it would undermine the principal argument for the substitute. But it is not true. That impression is incorrect. The loss to each of our States resulting from the administration bill over the authorization period would be substantial.

For example, my home State of Maine would lose a total of $46 million. This funding is badly needed in Maine and would jeopardize a number of important projects.

Mr. President, I ask unanimous consent that a table indicating the funding lost by each State under the administration plan be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

CLEAN WATER ACT REAUTHORIZATION—COMPARISON OF WASTEWATER GRANT AND LOAN AUTHORIZATIONS IN S. 1 AND S. 76, FISCAL YEAR 1986–94

State	S. 1 total	S. 76 total	Decrease
Alabama	204,890,729	136,947,150	67,943,579
Alaska	109,189,983	72,821,868	36,368,115
Arizona	123,221,281	82,179,735	41,041,546
Arkansas	119,337,622	79,589,614	39,748,008
California	1,304,713,839	870,150,324	434,563,515
Colorado	145,932,656	97,326,589	48,606,067
Connecticut	223,480,634	149,045,515	74,435,119
Delaware	89,370,000	59,580,000	29,790,000
District of Columbia	89,370,000	59,580,000	29,790,000
Florida	615,784,270	410,683,834	205,100,435
Georgia	308,437,997	205,705,968	102,732,029
Hawaii	141,297,320	94,235,153	47,062,167
Idaho	89,370,000	59,580,000	29,790,000
Illinois	825,072,529	550,264,056	274,808,473
Indiana	439,659,265	293,221,119	146,438,146
Iowa	246,907,889	164,669,810	82,238,079
Kansas	164,670,884	109,823,640	54,847,244
Kentucky	232,179,606	154,846,437	77,332,169
Louisiana	200,536,601	133,743,494	66,793,106
Maine	140,730,557	93,795,528	46,935,029
Maryland	441,216,311	294,259,557	146,956,754
Massachusetts	619,381,579	413,082,981	206,298,598
Michigan	784,410,400	523,145,339	261,265,060
Minnesota	335,301,486	223,621,983	111,679,502
Mississippi	164,366,633	109,620,726	54,745,906
Missouri	505,717,325	337,277,096	168,440,279
Montana	89,370,000	59,580,000	29,790,000
Nebraska	93,315,288	62,234,588	31,080,700
Nevada	89,370,000	59,580,000	29,790,000
New Hampshire	182,299,491	121,580,654	60,718,838
New Jersey	745,484,288	497,184,421	248,299,867
New Mexico	89,370,000	59,580,000	29,790,000
New York	2,016,404,205	1,345,148,643	671,255,563
North Carolina	329,234,383	219,575,662	109,658,721
North Dakota	89,370,000	59,580,000	29,790,000
Ohio	1,026,987,204	684,926,526	342,060,677
Oklahoma	147,382,318	98,293,410	49,088,908
Oregon	206,084,690	137,443,671	68,641,019
Pennsylvania	722,629,738	481,942,080	240,687,658
Rhode Island	122,046,557	81,339,528	40,707,029
South Carolina	186,881,141	124,636,284	62,244,856
South Dakota	89,370,000	59,580,000	29,790,000
Tennessee	265,001,824	176,737,163	88,264,660
Texas	796,070,442	526,213,517	269,856,925
Utah	96,124,854	64,108,379	32,016,475
Vermont	89,370,000	59,580,000	29,790,000
Virginia	373,350,646	248,998,038	124,352,608
Washington	317,243,348	211,578,504	105,664,844
West Virginia	284,384,339	189,663,907	94,720,431
Wisconsin	493,189,381	328,921,858	164,267,523
Wyoming	89,370,000	59,580,000	29,790,000
American Samoa	16,375,813	10,921,490	5,454,323
Guam	11,847,855	7,901,668	3,946,188
Northern Marianas	7,606,253	5,072,824	2,533,429
Puerto Rico	237,941,463	158,689,848	79,251,615
Trust Territory	23,355,668	15,576,551	7,779,117
Virgin Islands	9,503,341	6,338,045	3,165,296
Total	17,999,980,916	11,999,984,872	5,999,996,044

Notes.—(1) S. 1 authorizes funds through fiscal year 1994, S. 76 through fiscal year 1993. (2) $1.8 billion was allocated in fiscal year 1986 with the remaining $600 million carried over to fiscal year 1987. (3) State allotments are based on the current law formula through fiscal year 1987 as mandated by the fiscal year 1987 appropriations measure. Fiscal year 1988–94 projections are based on the formula contained in both bills which is authorized through fiscal year 1990. (4) Individual state allotments may vary slightly as the result of national set-asides included in both S. 1 and S. 76.

Mr. MITCHELL. I want to make it clear also that the differences between the bill and the administration substitute goes beyond the level of spending. The administration proposal would seriously weaken the clean water bill in several other important respects.

Our bill provides for the smooth transition of the Municipal Sewage Treatment Plant Construction Grant Program from Federal to State responsibility. This transition is accomplished through a gradual phase out of the grant program and the capitalization of State revolving loan funds. That is to say we are terminating the Federal program, and we are transferring the responsibility of this program to the States. One would think that President Reagan would applaud that measure. Instead, he vetoes it.

State loan funds will provide a permanent resource for funding of future water quality projects. The original Federal funds will be loaned by the States to communities for projects and communities will pay back funds at a very low interest rate. Repaid funds will then be revolved or turned around and loaned to other communities for other projects and thus a continuous stream of projects can be constructed in the States.

Creation of State loan funds is one of the most significant and far-sighted provisions of our bill. The administration bill—the Dole substitute—revises this provision in a way that makes it impractical and unworkable. And ironically enough then the administration proposes to make an effort to transfer effective responsibility from the Federal to the State level, and changes it in a way that would not be workable for the States to operate.

The administration proposal would allow States to use Federal funds to make grants or loans, but would not provide specific authorizations for the loan funds, as does our bill. Given the choice, because of the enormous existing clean up needs, many States can be expected to use all their funds for grants.

When Federal assistance comes to an end, these States will not have a permanent resource for assisting projects. These States will then be hard pressed to fund projects and will come back to Congress seeking further assistance. This defeats the basic objective of establishing the loan funds.

Will States use all their funds for grants rather than loans? Under our bill, loans will be available to cover 100 percent of the costs of eligible projects. The reality is that the value of a grant for 55 percent of a project's costs with the remainder of the cost financed at market rates is about the same as a low-interest loan for 100 percent of the cost. That is to say to the community with a project they can do just as well with a 100-percent loan at low interest as they can with a grant for 55 percent of the project cost and having to finance the remaining 45 percent at market interest rates.

Mr. President, I ask unanimous consent that a table showing grant and loan equivalency be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

GRANT EQUIVALENCE OF SRF LOAN AT CERTAIN INTEREST RATES

[In percent]

	Interest rate from bond market												
	0 percent	1 percent	2 percent	3 percent	4 percent	5 percent	6 percent	7 percent	8 percent	9 percent	10 percent	11 percent	12 percent
SRF interest rate:													
0 percent	0	10	18	26	32	38	43	47	51	54	57	60	63
1 percent		0	9	18	25	31	36	41	46	49	53	56	59
2 percent			0	9	17	24	30	35	40	44	48	51	54
3 percent				0	9	16	23	29	34	39	43	46	50
4 percent					0	8	16	22	28	33	37	41	45
5 percent						0	8	15	21	27	32	36	40
6 percent							0	8	14	20	26	31	35
7 percent								0	7	14	20	25	29
8 percent									0	7	13	19	24
9 percent										0	7	13	18
10 percent											0	6	12
11 percent												0	6
12 percent													0

Assumptions: Project would have been 100 percent grant/loan eligible. Loan is for 100 percent of project costs. Loan maturity is 20 yr with level debt service.

Mr. MITCHELL. The administration proposal, however, would allow a loan to cover only an average of 55 percent of a project's cost. This change would greatly reduce the value of a loan to a community. And such a change would effectively eliminate any chance that a large number of States would use limited Federal funds for loans rather than grants. Thus, the administration proposal would have the perverse and ironic effect of preventing an effective transition of this responsibility from the Federal to the State level.

Another key element of our bill addresses the problem of nonpoint source pollution.

Nonpoint pollution is general runoff, rather than a discharge from a specific pipe. EPA estimates that nonpoint pollution causes over half our remaining water quality problems.

The administration bill deletes all direct funding for projects to address this problem. I believe that a direct authorization is essential to the success of this vital initiative.

The administration bill would replace direct authorizations with a scheme allowing States to use a part of their construction grant funds, between 3 and 10 percent, to support nonpoint programs. This is asking States to rob Peter to pay Paul. These funds are committed years in advance to specific community projects. Most States will be unwilling or unable to derail a planned construction project to fund a newly identified nonpoint pollution project.

In addition, Mr. President, the administration bill substantially undermines the statutory basis for the nonpoint program by slashing large portions of the nonpoint section of our bill.

A section providing for State assessments of waters affected by nonpoint pollution is deleted in the administration bill.

A section providing for EPA assistance to local governments interested in addressing water quality problems is deleted under the administration bill.

A section providing a process for resolution of interstate disputes arising from nonpoint pollution problems is deleted under the administration bill.

A section providing for EPA reports to Congress on the nature and seriousness of the nonpoint pollution problem is deleted under the administration bill.

I could go on to identify other changes which weaken this important provision. But it is sufficient to say that the substitute bill virtually eliminates the program to deal with what the EPA itself—the Reagan administration-EPA itself—says is over half the remaining water pollution problem. That alone tells us something about this substitute.

For that reason alone, even if there were funding equivalence under the bill and substitute amendment, the substitute should be rejected.

Mr. President, I now turn to another subject.

In his statement the other day, the distinguished minority leader referred to the nonpoint provision of this bill as "Federal land use planning."

This is a serious charge. It is an erroneous charge.

This bill does not—I repeat does not—provide for Federal intervention in State and local land use planning decisions.

The nonpoint provision gives States the lead role in addressing nonpoint pollution problems. The Federal Government plays a limited, support role.

Further, the bill does not direct States to establish regulatory programs for control of nonpoint sources of pollution. I repeat that the bill does not direct States to establish regulatory programs for control of nonpoint sources of pollution. It specifically refers to a wide range of nonregulatory programs such as education, training, technical assistance, and demonstration, while not preventing a State from adopting a regulatory program where needed.

Only if a State fails to take the first step in addressing nonpoint pollution, which is to develop an assessment within the State of nonpoint pollution problems, does EPA step in to prepare an assessment for the State. This backup role is necessary in this limited circumstance to assure that we have a consistent, national data base on nonpoint problems.

That is the extent of the EPA-required authority. The first step is for a State to make an assessment of nonpoint pollution problems in the State. If the State does not do it, the EPA steps in and does it so that we can have national information on this problem.

The EPA will not step in if a State does not choose to proceed with further steps in the process, such as developing a control program. It a State decides that it does not want a program to control nonpoint pollution, that is it, under our bill. There will not be a program to control nonpoint pollution in that State.

Thus, the minority leader's characterization of this legislation as Federal land use planning is totally unfounded and incorrect.

Finally, I want to point out that this section was carefully designed in long negotiations with House conferees. We responded to those who expressed concern about Federal intervention in local decisions. We responded to those who were concerned that particular groups or sectors would be burdened by such programs. These concerns were addressed so successfully that both Houses of Congress approved the bill unanimously.

The nonpoint pollution provision is our bill is balanced and workable. The administration provision, essentially an effort to gut this bill, is not adequately funded and lacks direction and cohesiveness. I hope my colleagues will vote, as they did last year, for our provision.

I want to mention one other important change in the administration bill. The substitute now before us deletes a special fund established for programs to protect marine bays and estuaries.

This fund is to support research and related work in some of our most critical estuaries, including Long Island Sound, Narragansett Bay, Buzzards Bay, Puget Sound, New York-New Jersey Harbor, Delaware Bay, Albermarle Sound, Sarasota Bay, San Fransico Bay, and Galveston Bay.

While there is a direct authorization for this work, the provision deleted by the administration in its bill would assure that about $16 million will be set aside from the national construction grant fund to assure that the pollution problems in these critical areas are addressed.

In conclusion, Mr. President, I question the approach the administration has taken to dealing with the Congress on this issue. We have worked for the past 2 years to draft this bill.

I want to repeat what I said the other day, that the one person most responsible for that is Senator CHAFEE, a member of the President's own party. With dedication, with commitment, with 2 years of hard work, and with tremendous innovativeness, Senator CHAFEE drafted this compromise which, to his credit, the Congress approved unanimously. Every Member of the House, Republican and Democrat, every Member of the Senate, Republican and Democrat, who voted on this bill voted for it. Throughout this process, the administration opposed us on many of the key issues. They opposed Senator CHAFEE's efforts. They demanded immediate termination of the Sewage Treatment Grant Program, even though that directly violated the agreement which the administration had made and publicly acknowledged just a few years before.

They would not even discuss—I repeat, they would not even discuss—developing a responsible Nonpoint Pollution Control Program with adequate funding, even though the administration's own EPA has said at the same time that that was more than half of the remaining water pollution problem in our country.

Only now, after the President has vetoed our bill and faces the likelihood of having to veto it again, does the administration come forward with even the most modest proposals in these areas.

And the administration tells us that now is the time to compromise. I do not believe we can tolerate any further delay. It is now time to move forward with our bill, developed by the Congress over the past 2 years in a spirit of bipartisan cooperation, and already the subject of numerous compromises as I have described.

I urge my colleagues to support clean water by voting against this substitute amendment and for H.R. 1.

Mr. BURDICK. Mr. President, I rise in opposition to the proposed substitute for the Water Quality Act.

The amendment would seriously weaken the Clean Water Act reauthorization bill developed by the Environment Committee and the House and Senate conference committee.

I want to emphasize that the amendment would go much further than simply cutting the long-term authorizations for the Construction Grant Program. It would make a great many changes to our bill.

Mr. President, I ask unanimous consent that a side-by-side comparison of S. 1 and S. 76 prepared by the Congressional Research Service be printed in the RECORD at the conclusion of my remarks. I understand that Senator DOLE's substitute reinstates a number of provisions not included in S. 76. The comparison is still useful for those provisions not modified.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BURDICK. Mr. President, I would like to briefly address three of the most significant changes proposed by the amendment.

First, as I said, the bill would cut the authorization for the Construction Grant Program from $18 billion to $12 billion. This $18 billion authorization results in annual authorizations of $2.4 billion over the next 6 years, followed by declining authorizations until 1994.

Is this $2.4 billion figure irresponsible spending? I think not. It is what we have spent in this area each year for the past several years. It is what the administration agreed, back in 1981, was an appropriate amount to be appropriated each year for this program for a 10-year period. And, unfortunately, it is a compromise which is less than the total amount that would be needed to fully fund construction of all the needed sewage treatment plants.

The EPA has estimated that the cost of sewage treatment works needed over the next 20 years is about $45 billion. When only those portions of projects eligible for Federal assistance are considered, this estimate drops to about $45 billion. Even carrying a

EXHIBIT 1

S. 1 (S. 1128)	S. 76 (Administration)
TITLE I—AMENDMENTS TO TITLE I	
Sec. 101 Authorization of appropriations Provides general authorizations and authorizations for research and certain grant programs in the Act through F` 1990	Sec. 101. Authorization of appropriations. Same provision.
Sec. 102 Small Flows Clearinghouse Authorizes grants to support a national clearinghouse for collection and dissemination of information on alternative wastewater treatment technologies.	No similar provision.
Sec. 103. Chesapeake Bay Authorizes establishment of an EPA office to coordinate Federal and State efforts to improve quality of the Bay. Also authorizes research program	Sec. 102. Chesapeake Bay Same provision.
Sec. 104. Great Lakes Establishes in law the Great Lakes National Program Office. Authorizes planning, management, and research activities	Sec. 103. Great Lakes. Same provision.
Sec. 105. Research on Effects of Pollutants Authorizes research on harmful effects of pollutants	Sec. 104. Research on Effects of Pollutants. Same provision.
TITLE II—CONSTRUCTION GRANT AMENDMENTS	
Sec. 201. Time Limit on Resolving Certain Disputes Administrator shall make decision within 90 days on appeals filed over dispute on construction grant award	Sec. 201. Eligibilities, CSOs, Dispute Resolution, Limitations Same provision. Also authorizes grants for provision of loans for sewage treatment construction, under new sec. 220 of Act. Repeals provision giving State the discretion to use 20% of annual allotment for types of projects not generally eligible for Federal funds. Repeals provision of current law authorizing construction grants for combined sewer overflows affecting marine bays and estuaries. Extends until Oct. 1, 1990, Act's "grandfathering" of Federal funding for construction of reserve capacity
Sec. 202 Federal Share Authorizes Federal funding share for certain types of wastewater projects	Sec. 202. Federal Share. Same provision, except deletes subsection authorizing 75% Federal grant for Wyoming Valley Sanitary Authority project in Altoona, PA.
Sec. 203 Agreement on Eligible Costs Directs EPA to enter into an agreement with applicant specifying costs to be considered allowable for Federal funding purposes	Sec. 203. Agreement on Eligible Costs. Same provision.
Sec. 204 Design/build Projects Authorizes alternate design/build grant management procedures for certain specified waste treatment systems with estimated total cost of $8 million or less.	Sec. 204. Design/build Projects. Same provision.
Sec. 205 Grant Conditions, User Charges on Low-Income Residential Users Requires conformance with areawide waste treatment management plan, State continuing planning process, and State biennial water quality inventory report before grants may be approved. Allows use of user charge system imposing lower charge for low-income residential users.	Sec. 205. Grant Conditions; User Charges on Low-Income Residential Users Same provision.
Sec. 206 Allotment Formula Provides new State-by-State formula for construction grant funds for FY 87–90 Provides new State-by-State minimum State share of one-half of 1% Extends through FY90 minimum State share of one-half of 1% Extends through FY94 construction grant setaside for water quality management planning Extends through FY90 prohibition on use of Federal funds for separate storm sewer projects	Sec. 206. Allotment Formula. Same provision except does not provide extension of minimum one-half of one percent State share.
Sec. 207 Rural Set Aside Authorizes States to reserve portion of construction grant allotment for alternative sewage treatment works in small communities	Sec. 207. Rural Set Aside, Innovative and Alternative Projects, and Nonpoint Source Programs. Extends rural setaside in States with 25% rural population through FY87; no language applicable to other States. Extends innovative and alternative project grant setaside through FY87. Authorizes construction grant setaside to fund nonpoint source management and groundwater quality protection programs (in sec. 316 of the bill): not to exceed 3.5% of State's allotment in FY88, 5.32% in FY89, 6.25% in FY89, 10.83% in FY90.
Sec. 208 Innovative and Alternative Projects Extends through FY90 reservation of one-half of 1% setaside to increase Federal share of innovative and alternative wastewater system projects.	See sec. 207 for language.
Sec. 209 Regional Organization Funding Establishes portion of setaside used for water quality management purposes to be reserved for regional and interstate public planning groups	Sec. 208. Regional Organization Funding Same provision.
Sec. 210 Marine CSOs and Estuaries Authorizes reserving portion of State allotment to address combined sewer overflow effects on marine bays and estuaries and to implement national estuary program (sec. 320 of the bill)	No similar provision.
Sec. 211. Authorization for Construction Grants Extends authorization of construction grant appropriations through FY88 at level not to exceed $2.4 billion per year; and at level not to exceed $1.2 billion per year for FY89–90 (total $9.6 billion)	Sec. 209. Authorization for Construction Grants. Extends authorization of construction grant appropriations, not to exceed $1.8 billion in FY86, $2.0 billion per year in FY87–88, $1.9 billion in FY89, $1.6 billion in FY90; $1.2 billion in FY91; $1.0 billion in FY92; $500 million in FY93 (total $12.0 billion).
Sec. 212 State Water Pollution Control Revolving Funds Establishes new program of grants to States for purpose of making loans from a Water Pollution Control Revolving Fund See separate discussion in report	Sec. 210. Grants to States for Making Water Pollution Control Loans. Authorizes grants to States for loans for wastewater treatment construction See separate discussion in report
Sec. 213 Improvement Projects Directs EPA to make certain grants for improvements to projects in Avalon, CA, Walker Township and Smithfield Township, PA, Taylor Mill, KY, Nevada County, CA, Wanaque, NJ, and Lena, IL. Directs Pennsylvania to give funding priority to court-ordered projects of Wyoming Valley Sanitary Authority and in Altoona, PA (see sec. 202 of the bill).	No similar provision

S. 1 (S. 1128)	S. 76 (Administration)
Sec. 214. Chicago Tunnel and Reservoir Project	
Specifies that Chicago tunnel and reservoir project may receive grants without regard to other project limitations if cost-effectiveness and water quality benefits of project are demonstrated.	No similar provision
Sec. 215. Ad Valorem Tax Dedication	Sec. 211. Ad Valorem Tax Dedication
Declares that dedicated ad valorem tax system in effect in Hampton, NH on Dec. 27, 1977, is deemed to be user charge system for purposes of the Act	Same provision
TITLE III—STANDARDS AND ENFORCEMENT	
Sec. 301. Compliance Dates	Sec. 301. Compliance Dates
Establishes new compliance deadlines for industrial sources to attain standards under the Act	Same provision.
Sec. 302. Modification for Nonconventional Pollutants	Sec. 302. Modification for Nonconventional Pollutants
Limits waiver that industrial sources may seek from effluent limitation requirements concerning discharges of nonconventional pollutants	Same provision
Sec. 303. Discharges into Marine Waters	Sec. 303. Discharges into Marine Waters
Clarifies and restricts circumstances under which municipalities which discharge effluent into ocean waters may seek waiver from Act's secondary treatment requirements	Same provision.
Sec. 304. Filing Deadline for Treatment Works Modification	Sec. 304. Filing Deadline for Treatment Works Modification
Modifies language concerning deadline in Act for cities to seek extension of secondary treatment requirement until July 1, 1988	Same provision.
Sec. 305. Innovative Technology Compliance for Direct Dischargers	Sec. 305. Innovative Technology Compliance Deadlines for Direct Dischargers.
Extends compliance deadline for industrial source using innovative technology for toxic and conventional pollutant controls	Same provision.
Sec. 306. Fundamentally Different Factors	Sec. 306. Fundamentally Different Factors.
Defines conditions under which EPA may grant a modification from national effluent limitation guidelines based on fundamentally different factors for direct discharges of toxic, conventional, and nonconventional pollutants or categorical pretreatment standards for indirect dischargers. Directs EPA to issue case-by-case determined discharge permits to certain phosphate fertilizer manufacturing facilities.	Same provision.
Sec. 307. Coal Remining Operations	Sec. 307. Coal Remining Operations.
Authorizes issuance of modified discharge permit for certain discharges at coal remaining operations	Same provision.
Sec. 308. Individual Control Strategies for Toxic Pollutants	Sec. 308. Individual Control Strategies for Toxic Pollutants.
Requires EPA and States to develop programs for control of toxic pollutant discharges in waters where such discharges contribute to water quality problems after technology-based standards are in place.	Same provision.
Sec. 309. Pretreatment Standards	Sec. 309. Pretreatment Standards.
Authorizes additional 2 years for compliance with pretreatment requirements for existing source using innovative systems	Same provision
Sec. 310. Inspection and Entry	Sec. 310. Inspection and Entry
EPA Administrator or authorized representative may not improperly disclose confidential business information. But any such information shall be available to duly authorized committee of Congress.	Same provision.
Sec. 311. Marine Sanitation Devices	Sec. 311. Marine Sanitation Devices.
Permits State to adopt or enforce standards for houseboats more stringent than Federal rules; permits State to enforce Federal standards for all vessels.	Same provision
Sec. 312. Criminal Penalties	Sec. 312. Criminal Penalties
Modifies criminal penalty provisions of the Act	Same provision.
Sec. 313. Civil Penalties	Sec. 313. Civil Penalties.
Modifies civil penalty provisions of the Act	Same provision.
Sec. 314. Administrative Penalties	Sec. 314. Administrative Penalties
Establishes new administrative penalty mechanism in the Act	Same provision
Sec. 315. Clean Lakes	Sec. 315. Clean Lakes.
Modifies existing clean lakes provision. Authorizes a number of lake water quality demonstration projects and program	Same provision
Sec. 316. Management of Nonpoint Sources of Pollution	Sec. 316. Management of Nonpoint Sources of Pollution.
Establishes program to identify, assess, and manage nonpoint sources of pollution. Authorizes $400 million in grant assistance	Similar provision, but contains no separate funding mechanism.
See separate discussion in report	See separate discussion in report.
Sec. 317. National Estuary Program	Sec. 317. National Estuary Program.
Establishes program to develop comprehensive conservation and management plans for estuaries of national significance	Same provision.
Sec. 318. Unconsolidated Quaternary Aquifer	Sec. 318. Unconsolidated Quaternary Aquifer
Prohibits locating waste treatment facilities over the Unconsolidated Quaternary Aquifer or its recharge zone in NJ	Same provision.
TITLE IV—PERMITS AND LICENSES	
Sec. 401. Stormwater Runoff from Oil, Gas, and Mining Operations	Sec. 401. Stormwater Runoff from Oil, Gas, and Mining Operations.
Defines circumstances for issuing discharge permit to oil, gas, and mining operations	Same provision.
Sec. 402. Additional Pretreatment of Conventional Pollutants	Sec. 402. Additional Pretreatment of Conventional Pollutants.
Industries which discharge conventional pollutants to municipal plants not required to pretreat to compensate for city's inability to meet its permit	Same provision.
Sec. 403. Partial NPDES Program	Sec. 403. Partial NPDES Program.
Allows States to seek partial delegation of the NPDES permit program	Same provision.
Sec. 404. Anti-backsliding	Sec. 404. Anti-backsliding.
Defines and limits circumstances under which a renewed or reissued permit may contain less stringent effluent limitations	Same provision.
Sec. 405. Municipal and Industrial Stormwater Discharges	Sec. 405. Municipal and Industrial Stormwater Discharges.
Details application and permit requirements for industrial and large municipal sources discharging stormwater	Same provision.
Sec. 406. Sewage sludge.	Sec. 406. Sewage Sludge.
Requires EPA to develop regulations, including management practices or numerical limitations, for sludge contaminants, sludge disposal and use	Same provision.

S. 1 (S. 1128)	S. 76 (Administration)
Sec. 407. Log Transfer Facilities	Sec. 407. Log Transfer Facilities.
Details procedures applicable to permits under secs. 402 and 404 of the Act for log transfer facilities	Same provision.
TITLE V—MISCELLANEOUS PROVISIONS	
Sec. 501. Audits	Sec. 501. Audits.
Authorizes EPA to enter into noncompetitive procurement contracts with State organizations for purpose of carrying out audits and examinations pertinents to grants.	Same provision.
Sec. 502. Commonwealth of the Northern Mariana Islands	Sec. 502. Commonwealth of Northern Mariana Islands.
Expands definition of "State" to include Northern Mariana Islands	Same provision.
Sec. 503. Agricultural Stormwater Discharges	Sec. 503. Agricultural Stormwater Discharges.
Excludes agricultural stormwater discharges from definition of point source, for purpose of standards and regulations under the Act.	Same provision.
Sec. 504. Protection of Interests of United States in Citizen Suits	Sec. 504. Protection of Interests of United States in Citizen Suits.
Requires notification to the U.S. Government on filing of citizen suit under the Act and 45-day notice of filing consent decrees when U.S. is not a party.	Same provision.
Sec. 505. Judicial Review and Award of Fees	Sec. 506. Judicial Review and Award of Fees.
Establishes consolidated procedure for review of EPA actions. Authorizes awarding of attorney and expert witness fees to any prevailing or substantially prevailing party.	Same provision.
Sec. 506. Indian Tribes	Sec. 506. Indian Tribes.
Directs EPA and Indian Health Service to assess sewage treatment needs of Indian tribes, including funding needs. Indian tribes to be treated as States for purposes of certain sections of the Act, including construction grants.	Same provision.
Sec. 507. Definition of Point Source	Sec. 507. Definition of Point Source.
Excludes leachate collection systems from definition of point source	Same provision.
Sec. 508. Special Provisions Regarding Certain Dumping Sites	Sec. 508. Special Provisions Regarding Certain Dumping Sites.
Amends Ocean Dumping Act to prohibit ocean dumping of municipal sludge in the New York Bight Apex; restricts use of the 106-mile site.	Same provision.
Sec. 509. Ocean Discharge Research Project	Sec. 509. Ocean Discharge Research Project
Authorizes issuance of research permit for project involving ocean discharge of preconditioned municipal sewage sludge by Orange County, CA, sanitation district.	Same provision.
Sec. 510. San Diego, California	No similar provision.
Authorizes such funds as necessary for construction of certain sewage treatment works in San Diego	
Sec. 511. Limitation on Discharge of Raw Sewage by New York City	Sec. 510. Limitation on Discharge of Raw Sewage by New York City
Restricts and imposes deadline on raw sewage discharges from New York City North River and Red Hook plants	Same provision.
Sec. 512. Oakwood Beach and Red Hook Projects, NY	No similar provision.
Authorizes to be appropriated $7 million to assist with Oakwood Beach and Red Hook projects	
Sec. 513. Boston Harbor and Adjacent Waters	No similar provision.
Authorizes to be appropriated $100 million for water quality improvement projects in Boston Harbor and adjacent waters	
Sec. 514. Wastewater Reclamation Demonstration	No similar provision.
Authorizes to be appropriated $2 million to demonstrate and field test innovative wastewater reclamation technology in San Diego	
Sec. 515. Des Moines, Iowa	No similar provision.
Authorizes to be appropriated $50 million for secondary treatment plant in Des Moines	
Sec. 516. Study of de minimis Discharges	Sec. 511. Study of de minimis Discharges.
Directs EPA to study and report on eliminating regulation of "de minimis" discharges	Same provision.
Sec. 517. Study of Effectiveness of Innovative and Alternative Processes and Techniques	Sec. 512. Study of Effectiveness of Innovative and Alternative Processes and Techniques.
Directs EPA to study and report on effectiveness of innovative and alternative wastewater treatment processes used by municipal plants.	Same provision.
Sec. 518. Study of Testing Procedures	Sec. 513. Study of Testing Procedures.
Directs EPA to study and report on testing procedures for analysis of pollutants for analysis of pollutants under sec. 304(h) of the Act.	Same provision.
Sec. 519. Study of Pretreatment of Toxic Pollutants	Sec. 514. Study of Pretreatment of Toxic Pollutants.
Directs EPA to study and report on effectiveness of national pretreatment program	Same provision.
Sec. 520. Studies of Water Pollution Problems in Aquifers	Sec. 515. Studies of Water Pollution Problems in Aquifers.
Authorizes EPA to study point and nonpoint sources of pollution and control measures and practices affecting 7 groundwater aquifers.	Same provision.
Sec. 521. Great Lakes Consumptive Use Study	Great Lakes Consumptive Use Study
Requires Secretary of Army, together with EPA and others, to study effects of Great Lakes water consumption and control measures which can be implemented to reduce consumptive use of Great Lakes water.	Same provision.
Sec. 522. Sulfide Corrosion Study	Sec. 517. Sulfide Corrosion Study
Directs EPA to study and report on corrosive effects of sulfides in municipal sewage collection and treatment systems	Same provision.
Sec. 523. Study of Rainfall Induced Infiltration into Sewer Systems	Sec. 518. Study of Rainfall Induced Infiltration into Sewer Systems
Directs EPA to study and report to Congress on problems associated with rainfall induced infiltration into wastewater treatment sewer systems.	Same provision.
Sec. 524. Dam Water Quality Study	Sec. 519. Dam Water Quality Study
Directs EPA to study and report on effects of water quality of navigable waters attributable to impoundment and discharge of water by dams.	Same provision.
Sec. 525. Study of Pollution in Lake Pend Oreille, Idaho	Sec. 520. Study of Pollution in Lake Pend Oreille, Idaho
Directs EPA to study and report on causes of pollution of Lake Pend Oreille and Clark Fork River and its tributaries	Same provision.

large share of the costs themselves, States and local communities will be hard pressed to respond fully to their sewage treatment needs with the level of Federal assistance in our bill.

If we were to adopt the administration's proposed lower funding level, we would lose some of the key aspects of our Sewage Treatment Program. We would find relatively larger blocks of money being tied up in big city projects. Smaller communities have to compete for more limited funds and many of these small communities would not be able to construct the secondary treatment facilities required under the act.

In addition, funding of projects to upgrade treatment plants to deal with toxic pollutants would be more difficult. Control of toxic pollution from treatment plants is essential to protection of our most sensitive waters, such as Chesapeake Bay and the Great Lakes.

In my home State of North Dakota, the cut proposed by the administration would reduce the funds available for sewage treatment plant construction by $30 million.

My colleagues should be aware that a drastic cut in our Sewage Treatment Program, as proposed by the administration, will not mean that we just build fewer projects or build them a little slower. Rather, we will jeopardize our ability to addess projects in a wide range of communities and to respond to some of our most critical pollution problems.

The second major change proposed in the amendment is to revise the State Loan Fund Program. The proposed changes would greatly reduce the effectiveness of the loan fund.

States would be able to provide loans for an average of only 55 percent of project costs, rather than 100 percent of project costs as provided in our bill. This change makes grants much less valuable to communities.

The administration substitute would allow States to use funds for either a grant or a loan. Our bill provides a specific authorization for the loan fund. Because grants will be so much more valuable than loans under the administration proposal, most States can be expected to use Federal funds for grants only.

This means the Loan Program will be virtually ignored and, when Federal funds end, Congress will be under pressure to resume the Grant Program.

Finally, I am concerned that the amendment would drop all direct funding for State programs to address nonpoint sources of pollution. The amendment would also make major changes to this new provision of the act which would limit the effectiveness of State programs in this area.

In conclusion, Mr. President, our bill was developed in a spirit of bipartisan cooperation. All of my colleagues on the Environment Committee worked together to craft a reasonable and responsible bill. During last year's conference with the House, the Republican leadership of the committee worked with the leadership of the House Public Works Committee to hammer out a balanced conference report.

I think my colleagues should be aware that, throughout this process, the administration was given every opportunity to participate and to join us in developing the bill. In the key areas now before us, however, the administration was intransigent.

They opposed even a gradual phaseout of the Construction Grant Program. They opposed creation of State revolving loan funds. They opposed funding of programs to address nonpoint pollution.

I do not know whether our bill would have been different if the administration had offered the proposals in this amendment before now. The funding levels they suggest are clearly inadequate. But I feel certain that most of my colleagues would agree that the time to offer such proposals was during development of the legislation.

Now, at the 11th hour and after veto of the bill, in 1986, the administration asks us to adopt sweeping changes to legislation approved by unanimous vote of both Houses of Congress.

I hope that my colleagues will reject these proposals. They are both poorly conceived and poorly timed.

I urge each of my colleagues to vote for clean rivers, lakes, and streams by voting against this amendment.

Mr. President, I suggest the absence of a quorum and I ask unanimous consent that the time be equally charged.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. REID). Without objection, it is so ordered.

WATER QUALITY ACT OF 1987

The **PRESIDING OFFICER**. Under the previous order, the hour of 2 p.m. having arrived, the Senate will now resume consideration of the unfinished business, H.R. 1, which the clerk will now report.

The assistant legislative clerk read as follows:

A bill (H.R. 1) to amend the Federal Water Pollution Control Act to provide for the renewal of the quality of the Nation's waters and for other purposes.

The Senate resumed consideration of the bill.

AMENDMENT NO. 1

The **PRESIDING OFFICER**. The pending question is on amendment No. 1 on which there shall be 2 hours of debate to be equally divided, controlled by the majority and minority leaders or their designees.

Who yields the time?

Mr. **SYMMS**. Mr. President, on behalf of the minority, I yield 5 minutes to the distinguished Senator from Texas, Senator GRAMM.

Mr. **GRAMM**. I thank the Senator for yielding.

Mr. President, at the end of the last session of Congress, the Senate voted unanimously for the Water Quality Act of 1987. Today we act on the exact same legislation. Obviously, people are going to have to answer individually if their position is different now than it was last year, if they support a substitute or an amendment or they vote differently on final passage.

In light of that, Mr. President, I would like to outline what is different today than in the fall of last year when we considered this bill.

First of all, on the day last year that we voted on the water bill, the projected deficit was $144 billion. We were all trumpeting the fact that we had adopted a budget that met the Gramm-Rudman target. We all were aware at that time, however, that there were many savings in that bill that would never be realized; that bill, for example, assumed one rate of inflation for entitlement payments and another rate for revenue collections.

But there is no sense, Mr. President, in recounting that whole long, sad story. The reality is that today the projected deficit is $174 billion, not $144 billion.

That still represents the largest deficit reduction in American history, still represents a substantial decline in the rate of growth in Federal spending. I mean in no way to take away from what we achieved last year in the budget.

But the reality is, that one thing which is different today is that the projected deficit is $30 billion bigger. I submit, Mr. President, that that is a relevant factor here.

Second, when we voted before there was no alternative being presented. The only choice available was to vote yea or nay on a bill that represented a substantial increase in funding for water quality, both a commitment for the next 2 years and over a projected period of time.

Today there is an alternative. The alternative may be late in coming. There are many who can stand up and say, "It's a shame we didn't have the alternative before." But that does not alter the reality here today.

Today there is an alternative. It is an alternative supported by the President. It is an alternative that will be introduced by Senator DOLE, the distinguished Republican leader. That alternative funds the promotion of water quality. In fact, it provides funding in the next 2 years that is not substantially different than the bill before us. What is different is that it leaves open in the projected growth in the outyears which is set into place in the authorization in the bill before us.

So I submit, Mr. President, that Members of this body concerned about the Federal deficit, concerned about the targets of the Gramm-Rudman-Hollings law, should look hard at the Dole substitute and should support it. Members of this body should show that support not just in voting for the substitute, but should it fail, by voting "no" on final passage so that we might have an opportunity to come back and adopt a bill that basically is similar in one way and different in another. The Dole substitute in the first 2 years provides the basic thrust of this bill. In the outyears, however, it does not commit to the continuing increase that is provided in the bill before us.

I, for one, last year, with no alternative available and the ability to constrain appropriations, voted for this bill. The deficit is $30 billion higher today than it was then. An alternative is available today that provides for clean water and an equal commitment for all practical purposes in the first 2 years, but it leaves it open for us in the third and fourth and fifth years to look at where we are, to see what we can afford and to authorize at that point.

So I urge my colleagues to look at the difference. The deficit is $30 billion bigger today than it was on the day that we previously voted on this bill. There was no alternative available then. There is an alternative available now. I urge them to take that alternative, the fiscally prudent course, and to vote for the Dole amendment and, should that fail, to vote "no" to give us an opportunity to fulfill clean water requirements and to meet the requirements of the budget.

I yield the floor.

The **PRESIDING OFFICER**. Who

yields time?

Mr. SYMMS. Mr. President, I yield myself 10 minutes from the minority's time.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 10 minutes.

Mr. SYMMS. Mr. President, coming from the West and from an arid State like Idaho, a reclamation State, I think there are probably few Senators in this Chamber that have greater concern for the protection of the Nation's water than this Senator does. Any of you that have been in my State and seen our beautiful lakes and rivers knows that it is a most important issue to us and that we are totally dependent—we have reverent dependence, if you will—on our water resources.

The legislation currently before the Senate is the cumulation of over 4 years' work of the Environment and Public Works Committee. As a member of that committee, I have been involved in the development of this bill since its first introduction. Although I praise the ultimate goal of the bill, which is to secure the Nation's water supply from abuse and pollution, I must assert my belief that the alternative submitted by the respected minority leader, Senator DOLE, S. 76, in my view offers a much, much better solution to the problem.

The exorbitant cost of S. 1 is my primary concern. The bill appropriately recognizes that the construction of sewage treatment systems is better left to the State and municipal entities.

S. 1, however, drags out that transition from Federal construction grants over 9 years at a cost of $18 billion. The administration proposal, S. 76, offers an alternative transition period wherein $12 billion is spent over 8 years.

Mr. President, I think at this point it is good to review a little bit what happened in 1981 when the formula was changed. Originally, the construction grant program entailed $4.5 billion per year. With the budget squeeze and the recognition that this country was on a course for record, massive deficits caused by record, massive spending, the grants were cut to $2.4 billion. The Federal cost sharing was reduced from 75 percent down to 55 percent.

That meant less Federal dollars were cost shared to the States and local municipalities surprisingly to some, that money went a lot further and we actually got more sewage treatment plants built. More people got involved because they recognized that it really is not the Federal Government's responsibility to build sewers anyway. The Federal Government does not have any money it does not first take away from someone else. And besides, the Federal Government was running at a massive deficit.

In 1981, with the passage of the 1981 tax rate reductions and incentives, there was a big boom in privatization of water treatment plants.

Mr. President, it was found that some private sector solutions wherein water contracts and surface contracts were granted, now cost half what it had cost the Government.

Also, we found that the private sector, in addition to having less regulation, less bureaucracy, and greater efficiency, could build them faster, at 50 percent less cost in most cases. We took a great step forward in cleaning up the Nation's water as a result of what happened in 1981. It happened faster by cutting out the Government loop, instead of taking 7 years with all the planning and approval and so forth, the time was cut down to 2 years. We were really making some headway.

We were watching our colleagues in France and copying some of the things they were doing, where they were using private sector solutions to solve these problems. I think it has been clearly recognized by experts in the field and by people out in the local municipalities around this country, that the States and municipalities can do a better job to construct our Nation's sewer system. So why delay relinquishing that task to them? Why postpone an improvement in our system of funding sewage control at a Federal price tag of $6 billion?

Senator DOLE's substitute is one that all Senators, I would hope, would look at very carefully. It gives us the goal that we want and it does it faster. More clean water will cost less Federal dollars. And we need to save all the Federal dollars we can.

The management of water and sewage systems is no different from other public service industries. In fact, processing sewage and purifying water for human consumption is, in principal, no different from any other commercial enterprise. It is curious that we tend to think of sewage construction as a governmental responsibility. There is nothing inherently governmental about it. Municipalities can contract with private companies for sewage treatment just as they do for communications, power, and transportation.

It is interesting in France, instead of bidding as local governments in the United States do on cable TV, transportation systems and so forth, where the local governments contract with the highest bidder, the French contract for water treatment by taking the lowest bid; in other words, who will treat the water and have the lowest water bill for the consumers, instead of the highest.

France offers some interesting alternatives to government management of these important public services.

French municipalities accept competitive bids from private managers, thus obtaining the lowest possible cost for the service. Even though this bill moves toward the defederalization of sewage treatment construction, a move long overdue, it does not go so far as to privitize sewage treatment. That option still remains open and I would encourage my colleagues to examine it and look at it carefully. Because, in my view, the way to really clean up the water in this country is to turn the private sector loose and give them the incentives to solve the problem.

It is also worth noting that S. 1 contains a number of special authorizations for collector systems of regional interest. For those of my colleagues who are not used to that kind of terminology, that language simply means pork barrel. It is a sad commentary on this Congress that the first major legislation of the 100th meeting of the Congress of the United States, will be a vehicle which encourages more pork barreling of the taxpayers' dollars

I am further concerned about the nonpoint source provisions of S. 1. The bill creates a new program to control runoff from city streets, farm land, mining sites, and other sources. Part of this program requires States to submit to the Environmental Protection Agency a report identifying State waters that are expected to have nonpoint source pollution. The report must also include methods for reducing the suspected runoff, and an explanation of how such measures will be implemented. This mandatory program smells of land-use planning. The last thing that Idaho farmers, need or farmers all across this country for that matter, is to have Washington bureaucrats planning the use of their land more than it already does. The voluntary program suggested by the administration is a much better alternative which allows each State to assess its own need for nonpoint source pollution control.

Mr. President, I would just say to my colleagues that in this Senator's view S. 76 is by far a better solution to the Nation's clean water needs. I urge my colleagues in the deliberation of this afternoon to consider it very seriously. It is easy to stand here and throw money at a problem and say we will stand up to the President and so forth. The Congress has been doing that for years. What we have is a $2 trillion debt to the detriment of the entire Nation. If we are earnest in our desire for clean water, we must develop solid, workable solutions that are both effective and economical.

So I urge my colleagues when the opportunity comes to join with me, Senator Dole and others in support of the substitute measure that the distinguished minority leader will be offering. I might just say that if we pollute the fiscal system of the United States, it is going to be very hard to clean up the water in the country.

I reserve the balance of the time for the minority, and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MITCHELL. Mr. President, I yield 5 minutes to the Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii is recognized for 5 minutes.

Mr. MATSUNAGA. Mr. President, I thank the distinguished floor manager, Mr. Mitchell, for yielding.

Mr. MATSUNAGA. Mr. President, I rise in strong support of H.R. 1, the Clean Water Act of 1987. That the 100th Congress would consider and pass this measure as its first legislative act is a strong indication that the people of the United States are well represented in the legislative branch of their Government by men and women who hold foremost the health and safety of their constituents. This same measure, unfortunately, was vetoed by the President in the closing days of the last Congress, without the necessary time to override that veto.

Mr. President, I wish to add my commendation to those already extended to the chairman of the Committee on Environment and Public Works, Mr. Burdick, and to its ranking minority member and former chairman, Mr. Stafford, for their major roles in passing the Clean Water Act in the last Congress and for concurring in the immediate floor consideration of the measure in this Congress. To the chairman of the Subcommittee on Environment, Mr. Mitchell, and its ranking minority member, Mr. Chafee, I extend my special accolade for their tremendous efforts in formulating difficult but needed legislation which was approved unanimously in the last Congress and for bringing the same measure for the earliest consideration by this body.

Mr. President, I am especially grateful that the pending bill provides for meeting the special and unique needs of my deserving constituents in the sugar industry. I am referring, of course, to section 306 of H.R. 1.

Mr. President, as I understand it, the legislative intent of section 306 of H.R. 1, the Clean Water Act of 1987 as approved by the House, is clearly defined in the section by section analysis of H.R. 1 recorded in the Congressional Record of January 7, 1987, as it relates to the Hamakua coast sugarcane processing mills in Hawaii.

Although section 306 limits the authority of the EPA Administrator to modify minimum national treatment requirements for an industrial facility within an industry, the section by section analysis also stipulates that "In the case of guidelines for the oil and gas extraction industry and with respect to three sugarcane processing mills along the Hamakua coast of Hawaii, the EPA may temporarily withdraw the applicable guideline at any time, issue a best professional judgment permit to affected facilities, and then reissue the guidelines with an appropriate subcategory."

Mr. President, this specific authority to the EPA is provided in H.R. 1 in recognition of the fact that the sugarcane processing mills on the Hamakua Coast in Hawaii are faced with fundamentally different factors than any other sugar processing plants in Hawaii or anywhere else in the United States. As a result of their coastal location, these sugar mills must incur unusually high costs to comply with the total suspended solid effluent limitations set by the EPA for the industry in general.

While Hawaiian sugar processing mills all use water to wash field dirt from the sugarcane after it has been harvested, and before it is crushed, the amount of soil collected in the washwater, referred to as total suspended solids, depends to a great extent on the geographic location of the sugarcane fields because the amount of soil which must be washed from the sugarcane increases with greater rainfall.

The Hamakua Coast sugar cane processing mills are located in an area that experiences unusually heavy annual rainfall and are situated on the coast at a much lower elevation than their sugarcane fields. As a result, it is not feasible for the mills to use the washwater, which contains relatively high concentrations of total suspended solids, for field irrigation in accordance with common practice. Instead, the washwater must be filtered by hydroseparators and run through settling ponds before being discharged into the Pacific Ocean. The costs associated with this effluent control technology have crippled the companies economically, and threaten to shut them down completely.

Environmental studies on the effects of sugar cane washwater discharges into the Pacific Ocean show that the environmental benefits of limiting the amount of total suspended solids is minimal because the ocean area affected is largely dependent on tidal stage, wind, and the settling velocities of total suspended solids contained in the washwater, rather than on the amount of total suspended solids in the washwater discharge. In fact, since EPA imposed effluent limitation for total suspended solids on the mills, the zones of measurable impact from their washwater discharges have not changed significantly, despite a decrease in total suspended solids discharge on the part of the mills by a factor of 10. Similar zones of impact, or brown spots, are created along the Hamakua Coast from over 50 streams flowing as designed by nature into the ocean.

For over 4 years, the sugar companies have requested EPA, without success, to reconsider the application of total suspended solids effluent limitations to the companies' wastewater discharges to the Pacific Ocean. Despite clear evidence that, in this case, the relationship between the costs of attaining a reduction in suspended solids and the benefits derived is not reasonable, EPA has denied the companies' requests for a waiver from total suspended solids effluent limitations because, among other things, EPA believes it lacks the authority to consider the effect of a discharge on the receiving waters.

Mr. President, it is my understanding from reading the section-by-section analysis of H.R. 1, as approved by the House, that upon its passage without any amendments to section 306, the EPA will have that authority to provide environmentally sound administrative relief to the Hamakua Coast sugar processing mills. In particular, EPA would be authorized to withdraw its applicable guidelines issued earlier, reissue a best professional judgment NPDES permit to the Hamakua Coast sugar cane processing mills in Hawaii, then promulgate new effluent limitations for these companies.

Mr. President, I ask the distinguished floor manager for the majority and chairman of the Subcommittee on Environment, Mr. MITCHELL, whether or not he concurs with my understanding of the legislative intent of section 306 of H.R. 1.

Mr. MITCHELL. Mr. President, if the junior Senator from Hawaii, Mr. MATSUNAGA, will yield, I must state for the Record that I fully concur with him in his expressed understanding of the legislative intent of section 306 of H.R. 1, the Water Quality Act of 1987, now under consideration by this body. I should also note that the conference report applies this approach to the oil and gas extraction industry.

Mr. MATSUNAGA. I thank the Senator from Maine, Mr. President, and I ask the distinguished floor manager for the minority and ranking minority member of the Subcommittee on the Environment, Mr. CHAFEE, whether or not he concurs with the chairman of the subcommittee, Mr. MITCHELL, and this Senator from Hawaii, on the expressed legislative intent of section 306 of H.R. 1?

Mr. CHAFEE. Mr. President, if the junior Senator from Hawaii will yield, I wish to state for the record that I fully agree with his expressed understanding of the legislative intent of section 306 of H.R. 1.

Mr. MATSUNAGA. I thank the Senator from Rhode Island.

Mr. President, I yield the floor.

Mr. MITCHELL. Mr. President, I would like to comment briefly in response to some of the remarks made by the distinguished Senator from Idaho in support of the substitute amendment and in opposition to H.R. 1, the legislation that has been overwhelmingly approved by the Congress previously.

Just two points: The Senator argues that sewage treatment preventing the pollution of our Nation's waters ought not to be a responsibility of government. He said that the answer to this problem is to turn the private sector loose on it, and we ought not to have any kind of government program. My response to that is that before 1972 we did not have any significant Federal program to deal with the problem of water pollution in our country. And as a result, almost every major river in the United States was a stinking, open sewer. The American people could not swim. They could not fish. They could not boat in their Nation's rivers.

Since 1972, since we passed the Federal Clean Water Act, hundreds and hundreds of American rivers have been cleaned up. And the American people overwhelmingly want this program to continue.

So in response to that point, I say that we have had a long experience with what the Senator from Idaho suggested is the answer to this problem, and it was demonstrably not the answer to the problem. The answer lies in passing H.R. 1.

Finally, before I yield to the distinguished Senator from Massachusetts, who I note has come onto the floor, I would respond to a second point made by the Senator from Idaho. He opposed that provision in H.R. 1 which deals with nonpoint sources of pollution by repeating the statement made by the distinguished minority leader last week who said it is Federal land use planning. He said it is a mandatory program that will force the farmers to do what they otherwise would not do.

I say that is absolutely false. There is nothing in this bill which requires any State in the country to adopt a program to deal with nonpoint source pollution. The bill provides that each State will make an assessment of the problem. If a State does not make an assessment of the problem, the EPA will make one in that State for the purpose of establishing national data on this problem. This is a problem which the EPA itself, the Reagan administration EPA, says causes more than half of the remaining water pollution problem. After that, no State is compelled to adopt a program to control nonpoint source pollution.

If the State of Idaho, the State of Kansas, the State of Maine or any other State says, "We do not want a program," that is it, there will be no program.

The decision on whether to adopt a control program with respect to nonpoint source pollution is entirely a State decision. If a State does decide to go forward, as most sensible States will, then there is a participating program in which they can request assistance. So it is absolutely false, untrue, and misleading for anyone to say that this is Federal land use planning.

The bill was carefully crafted with the interests of the States in mind, and that is what is contained in the bill.

I urge Members of the Senate to look at the provisions of the bill before making a judgment with respect to this allegation regarding Federal land use planning.

Mr. President, I now yield 3 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I think it is only appropriate that the Senate of the United States face this extremely compelling issue as one of the first items on the agenda of this Congress. I think one of our most important responsibilities is to try to ensure that America the Beautiful will be inherited by the next generation. One of the key elements in America the Beautiful is having the clean streams, clean rivers, and clean harbors which have been so much a part of our history and tradition and which have been despoiled in past years, particularly during the industrialization of America.

Now we are at a critical crossroads. We must face the crossroads by passing this measure in a bipartisan way this afternoon.

I wish to speak about the region and the State which I represent and about what this is going to mean in the cleaning up of one of the important areas of New England—the Boston Harbor.

The kinds of efforts which are being undertaken at the State level and among the communities that border on the harbor have really been outstanding. Many of those people who live in the area near the harbor have middle or lower incomes. They are prepared to see a dramatic increase in their rates in order to invest in trying to provide for the cleaning up of one of the most important waterways in our country at this time.

The way this program has been fashioned, the way it is supported by the States and the local communities is a tribute to the very deliberative and bipartisan style by the members of this committee. This legislation really offers enormous hope and opportunity to those who are committed to the clean water of this country.

It has important and long-lasting implications in terms of eliminating from our streams, rivers, and harbors, the hazards which can affect the quality of health of the most vulnerable people in our society, the children in our Nation. This legislation makes sense from every point of view. It is a sound investment in America.

Many people on this floor are debating this bill on the budget issue. Certainly, that is a consideration. But the most important consideration is what we are doing for our country. This is the bill, this is the time, this is the issue. I am hopeful that this bill, H.R. 1, will be passed by an overwhelming majority on both sides of the aisle.

Mr. President, I support H.R. 1 and I urge my Senate colleagues to vote—once again—to send a strong Clean Water Act to the President. This bill addresses the critical nationwide problems of polluted harbors and waterways and provides vitally needed resources for the construction of new sewage treatment facilities to ensure clean waters for the future.

Last year, in an ill-advised action, President Reagan chose to pocket veto the bill after Congress had adjourned, but now we have a chance to pass it again and enact it into law.

I am especially pleased that the bill contains $100 million for the cleanup and revitalization of one of the Commonwealth's most important natural and economic resources—Boston Harbor. Few cities have a resource as magnificent as the harbor. It is a unique asset that witnessed a significant part of our Nation's history. With its scenic shoreline, its 30 islands and thriving port facilities, the harbor is a priceless economic and environmental treasure.

It has suffered heavy environmental damage from the tremendous industrial and residential growth of the Boston area in recent decades. The resulting pollution and decay has threatened the natural beauty of the harbor and jeopardized the prospects of future growth. Every year, billions of gallons of raw untreated effluent are dumped into the harbor. New sewage facilities must be constructed to replace the current antiquated system.

This bill contains $30 million for emergency improvements to the old facilities to decrease the discharge of this raw sewage and $70 million for the construction of new secondary treatment facilities.

The Commonwealth has pledged its own financial resources to the revitalization of the Boston Harbor, but it is an extremely expensive undertaking—current estimates of the cost of the new facility are in excess of $2.5 billion—and the Federal assistance in the present legislation is a vital component in reaching our goal.

Boston is only one example. There are thousands of communities across our Nation who have relied on the promise of the funds contained in this bill in developing their plans to resolving their most pressing water pollution problems. We must assist the economic development of our communities while addressing the problems it creates. We cannot permit the environment to suffer at the hand of prosperity, for in the end, prosperity will suffer too.

The Clean Water Act is one of the most important pieces of environmental legislation of this decade. It vigorously addresses the water pollution crisis across our Nation. This bill has the overwhelming support of the American people and the overwhelming support by both Houses of Congress. I hope that we will send it to the President today with a bipartisan mandate that the President cannot ignore.

Mr. MITCHELL. Mr. President, from Los Angeles, CA, to Tampa, FL, to Seattle, WA, newspapers all over the country have almost unanimously expressed for this legislation and denounced the President's unwise veto of the bill last November.

I ask unanimous consent that a representative sample of such editorials be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

The Wichita Eagle-Beacon: "Resuscitating Clean Water Bill."

The Wichita Eagle-Beacon: "Water Veto Would Hurt Kansas."

The Kansas City Times: "Dirty Move on Clean Water."

Dallas Times Herald: "Approve Clean Water Act."

The Dallas Morning News: "Time is Running Out for Major Urban Areas."

Portland Maine, Evening Express: "WATER Keep it Clean."

The New York Times: "Bucking the Clean Water Tide."

Los Angeles Times: "Whopping Sentiment."

The Post-Intelligencer: "President's Ear Shut on Water Bill."

The Seattle Times: "Reagan Shouldn't Veto Clean-Water Legislation."

The Orlando Sentinel: "Politics Dirties the Water."

Wilmington New Journal: "Clean Water Veto Unwise."

Arkansas Gazette: "A Reckless Veto by Mr. Reagan."

The Philadelphia Inquirer: "Playing Macho on Water Bill."

Tallahassee Democrat: "Clean Water Return Bill to the President."

Atlanta Constitution: "Water Act Veto an All-Count Loser."

Sacramento Bee: "Clean Water, Postponed."

Tampa Tribune: "The President Asks for It."

Statesman-Journal: "Water Pollution Veto Sets Back Cleanup."

[From the Wichita Eagle-Beacon, Dec. 22, 1986]

RESUSCITATING CLEAN WATER BILL

One of the 99th Congress' sounder pieces of legislation—and its best supported piece of legislation by far—was the Clean Water Act of 1986. When President Reagan last month allowed the measure, passed by both houses unanimously, to die by pocket veto, his action flew in the face of a clear expression of the will of the people. Just as seriously, he delayed the upgrading or construction of sorely needed sewage systems all over the country.

The bill, as passed, would assure Kansas more than $21 million a year for five years—its share of an $18 billion fund established by the bill—to build and improve sewage-treatment plants. For that reason alone, Sens. Bob Dole and Nancy Kassebaum should have no trouble giving the bill their support, particularly at the crucial "unanimous consent" stage: If the 1986 act is to be brought to the floor directly, bypassing the relevant committees, every member present must agree. Observers believe achieving unanimous consent will be more of a problem for the Senate than the House.

The bill, as written, is a wise compromise that not only would help curtail the flow of sewage into lakes and streams, but also would address, for the first time, surface runoff from farms, streets and industies. The bill establishes a firm time, 1995, when the federal government no longer will finance sewer construction. States, counties and cities would be assured a reasonable period to establish alternate money sources.

Neither house should reopen the clean-water debate, since that only would encourage efforts to weaken the bill. Members should regard the question of the nature and extent of federal involvement in cleaning up lakes and streams as settled. If the bill, unamended, is sent back to the president in January or February, backed by a bipartisan majority of two-thirds or more, maybe he'll see it that way now, too.

[From the Wichita Eagle-Beacon, Nov. 5, 1986]

WATER VETO WOULD HURT KANSAS

Thursday, at midnight, the vicious cycle starts again. That's when the 1986 version of the Clean Water Act, passed by a vote of 504-0, dies on President Reagan's desk. That's when the commitment to end America's careless pollution of its own precious water supplies wavers—unless the president relents and signs the bill.

If he doesn't sign it, as appears increasingly likely, the remarkable progress made in cleaning up the nation's tainted streams and lakes over the last 14 years will falter, stop and eventually reverse course. Massive efforts to bring adequate sanitation services to communities all across the country, in the form of modern sewage treatment plants, likewise will be undone. It will then be only a matter of time until an even more massive cleanup effort is required.

Kansas is a good example of the harm that a presidential pocket veto of the Clean Water Act would precipitate. Gov. Carlin recently pointed out in a letter urging Mr. Reagan to sign the bill that "Kansas municipalities . . . will require $175 million in construction grants to meet the secondary treatment requirement. . . . In addition, we have barely begun to address the problems of toxic pollutants and nonpoint source pollution which represent potentially serious risks to the public health and environment."

No fewer than 83 pending Kansas sewage treatment projects, at an estimated cost of $286 million, have been put in jeopardy by the veto threat. Take the Kansas example and multiply it coast to coast, and you have the reason why an $18 billion commitment to continue sewer construction over the next nine years is a necessity.

Lacking such help from their federal partner in the clean water campaign, many municipalities will have no choice but to cancel those projects, since funding them entirely at the local level would drive sewer service rates completely out of sight for individual consumers. The negative impact on potential development might be matched only by the resulting damage to the environment, as wastes again begin finding their way back into water sources. Further, there will be no effective way to control chemical runoff from farm and industrial operations.

The original Clean Water Act has been one of this country's rare environmental success stories. America can't afford to be without such legislation for even a short time. Mr. Reagan should listen to Congress' unanimous voice: This is one investment that pays off. He should sign the legislation promptly, not restart the pollution cycle with a veto.

[From the Kansas City Times, Nov. 10, 1986]

DIRTY MOVE ON CLEAN WATER

President Reagan was wrong to veto the Clean Water Act of 1986. It postpones action needed to handle new water-related problems and halts building of sewage systems, including some in Kansas and Missouri.

Mr. Reagan was right about one thing. The $18 billion price tag for the legislation was on the high side. But good reason existed for that fact. Congress wrangled for four years to come up with a measure satisfactory to enough members. And the $6 billion backed by the administration for the job was simply far too little.

The president's fiscal objections to the bill ring hollow. The federal government already has committed itself to gradually pulling away from sewer subsidies. But that date, set at 1994, does not please the administration, which sets 1990 as the target. Thus, Mr. Reagan is trying to get the federal government out of a financing commitment it made long ago to states and cities, including Kansas City, which has a sewer project in the planning stage.

Congress this year made it clear the 1994 date should stand; the veto shows the president maintains different ideas on the matter.

Now supporters of clean water have rallied and say a new bill will be quickly passed by the 1987 Congress. But there are facts to temper that enthusiasm.

The realism of politics will intrude on the process. The changing of the guard in the Senate probably will alter states' shares of federal money. Newly powerful Democrats will try to get more money for sewer projects in their states; Republicans will fight to keep funds once intended for their states.

Besides putting Congress through the wringer on this topic one more time, the veto also ensures that programs needed to combat newly discovered problems won't start in a timely fashion.

One plan would require controls on runoff from streets and farms. Studies in the past two years have shown this problem is far greater than most people realized. Another program would have concentrated on cleaning up hazardous chemicals in about three dozen bays and other bodies of water.

Mr. Reagan's veto means the goal of taking care of water-related environmental problems is a little further off. He could have avoided giving states and cities this fiscal headache. But he didn't.

[From the Dallas Times Herald, Nov. 4, 1986]

APPROVE CLEAN WATER ACT

President Reagan should sign the reauthorization of the Clean Water Act. Reauthorization has been languishing in Congress for the past three years, but it finally has received overwhelming support in both the U.S. House and Senate.

Mr. Reagan must sign the legislation by Thursday, or it will automatically die and the entire process for reauthorization, including laborious committee hearings, will have to begin from scratch when Congress reconvenes.

The measure is highly important to Texas. According to Sen. Lloyd Bentsen's office, the state would get $110 million in matching money for the current fiscal year and $716 million overall between now and 1994 for construction of sewage treatment plants—helping bring dozens of cities and towns into compliance with federal clean-water standards.

The $18 billion package offers several new features, including a program to attack polluting runoffs from farms, streets and mines, a crackdown on industrial toxins reaching waterways and a program to clean up estuaries, which would help Texas' Galveston Bay.

Mr. Reagan wants to end the construction grant program, and he contends the bill is too costly. But proponents of the legislation, both Democrats and Republicans, have compromised in several ways, including reducing the government's portion of the matching grants from 80 percent to 55 percent and replacing the grant program eventually with a revolving fund program, from which municipalities would be able to borrow money to upgrade their treatment facilities.

The reauthorization passed 96–0 in the Senate and 408–0 in the House. That expresses broad support for the ongoing commitment to rid the nation's lakes, rivers, bays and estuaries from poisonous pollution. That commitment should not receive a setback in the form of a "pocket veto." We urge the president to sign the bill.

[From the Dallas Morning News, Dec. 14, 1986]

TIME IS RUNNING OUT FOR MAJOR URBAN AREAS

There is no place that federal spending cuts will be felt more strongly next year than in major urban centers, where the flow of financial assistance from Washington, D.C., is quickly drying up.

Municipalities already have been hit hard in 1986 by the decision of Congress to discontinue federal revenue sharing and President Reagan's veto of the Clean Water Act. These actions will cost individual cities millions of dollars in funding for sewage and water treatment plants and other important construction projects.

Next year, sweeping legislation will be introduced that will eliminate virtually all federal domestic assistance programs. Among the programs that would be killed are community development block grants, urban development action grants, work incentive programs, housing assistance and urban and secondary highway programs. Also under consideration for elimination are some of the Urban Mass Transportation Authority Programs.

Congress will be under tremendous pressure to look high and low for ways to reduce the huge federal budget deficit. That assistance programs to local governments are a natural place to trim during economic hard times.

Indeed, many of the domestic programs have been subject to abuse over the years. Far too many of the urban development action grants were beneficial only to the developers who received them—not to low-income residents who were supposed to have been helped.

But if Congress decides to terminate the federal-local partnership that has existed for years, there must be reasonable ways made available to keep individual cities from suffering such a heavy financial loss.

It is not enough for federal authorities to say that they will "cushion" the blow by providing temporary grants to states and cities that are incapable of meeting minimum public service needs.

During their recent meeting in San Antonio, National League of Cities officials said that the eventual loss in revenue assistance to the cities could be as much as 80 percent.

Municipal governments should have the right to continue to seek assistance from Washington for construction projects specifically designed to meet federally mandated standards. For example, Environmental Protection Agency requirements for water and sewage treatment will require a massive investment in plant facilties by the Dallas city government during then next few years.

The cities should be able to recapture at least a portion of those expenditures from the federal government. The federal-local partnership should work both ways: If Uncle Sam is going to force cities to provide specific services, Uncle Sam should help with the tab.

[From the Portland (ME) Express, Jan. 18, 1987]

WATER: KEEP IT CLEAN

Congress is moving swiftly to reauthorize the Clean Water Act of 1972, a monumental piece of legislation that has done so much to improve the nation's water quality by providing money for states to construct wastewater and sewage treatment facilities.

And well it should. Last fall both branches passed an $18 million package without a dissenting vote. Unfortunately, the amount was about three times what President Reagan preferred in his characteristic antipathy to domestic spending and he allowed the legislation to die after Congress had adjourned.

Consequently, it has been resurrected this term and Reagan, Congress seems to be saying, be damned.

"We're giving the president a second chance," Sen. Quentin Burdick, D-N.D., Senate Environment Committee chairman charitably said this week. There are 75 sponsors of the Senate version and an identical House version has already been approved 406–8.

Clearly the president is running the wrong way up the sewer on this issue. One reason is that wastewater treatment is a popular issue. Witness the historical approval bond issues to deal with sewage treatment have received in Maine, a state which expects to receive $18.5 million for projects in 10 communities.

Reagan originally preferred $6 billion, upping the ante to $12 billion this year following his pocket veto which Sen. George Mitchell had characterized as "a mistake, both substantively and politically."

While the nation's obscene deficit is on everyone's minds, there are certainly ways to address it short of endangering the nation's water quality.

To underfund the Clean Water Act would be a step backward this country definately should avoid.

[From the New York Times, Jan. 11, 1987]

BUCKING THE CLEAN WATER TIDE

Fifteen years after the Clean Water Act, many rivers and lakes are still disgracefully polluted with sewage and poisonous chemicals. Congress ardently desires to make America's waters swimmable and fishable once again. But President Reagan persists in opposing a bill to renew the Clean Water Act. The new House has just insisted on this legislation and the new Senate is about to do the same. If so, that will turn the dispute into a triumph for all, including the Administration, even though Mr. Reagan insists it's a defeat.

Mr. Reagan opposes the new water bill because of expense. But the $18 billion, mostly to help cities build new sewage plants, is spread out over nine years—and, remarkably, much of the money is a final payment that will end the program.

The President came into office determined to reduce Federal expenditure and the costs of environmental regulation. Under his criticism, Congress in 1981 agreed to curb wasteful features in the sewage grant program, to cut the Federal share of construction from 75 to 55 percent, and terminate the whole program provided the Administration would allow that to happen over 10 years. Following these terms, part of the $18 billion in the Clean Water Act is to continue construction, and part for the states to set up revolving loan funds from which they can assume the full burden.

Instead of going along with the deal and declaring the victory of principle that he had gained, Mr. Reagan's advisers had him demand that the construction program be cut immediately and proposed a $6 billion bill. Congress bridled and last year passed its $18 billion with not one dissenting vote.

With what could only be blind stubbornness, Mr. Reagan pocket-vetoed the bill, which the new Congress has now taken up again as its first order of business. The House approved it last week, 406 to 8. In the Senate, the Administration raises its offer to $12 billion, but would cut out funds for important sewage-treatment plants in New York City and Boston, and eliminate money for controlling runoff from city streets and farms. The bid is too little and too late. The Senate would do well to reject it, and by a veto-proof majority.

[From the Los Angeles Times, Jan. 11, 1987]

WHOPPING SENTIMENT

Over the past several months Congress has accumulated a total vote of 910 to 8 in favor of a $20-billion, eight-year Clean Water Act program, and the court will continue to soar when the Senate votes on the bill again this week—possibly Monday. If President Reagan chooses to veto the bill a second time, and Congress is forced to take an override vote, the cumulative tally in support of this program could approach astronomical proportions—something like 1,500 to 100, which assumes that some senators and House members would rally behind the White House on an override showdown. That would certainly set some kind of record for White House stubbornness in the face of overwhelming congressional support.

Congress passed the bill late in the last session after four years of work in drafting a continuation of the program first enacted over Richard M. Nixon's veto in 1972. The vote last fall was 408 to 0 in the House and 96 to 0 in the Senate. About $10 billion would be issued in grants to local governments for constrtuction of new sewage-treatment facilities and the renovation of old ones; $8 billion would be put into a revolving fund for loans beginning in 1990 and $2 billion would be used in other clean-water programs. The proposed law provides for grants to up to 55% of the cost of the sewage-treatment facilities. States provide another 15%, and local government put up the rest.

This has been an extremely effective and popular program. Since many interstate streams, estuaries and lakes are affected, the federal government has a clear responsibility. Economic development is restricted in many areas by the sewage systems strained to capacity. One wonders why the President has decided to draw the line in the dirt so firmly and deeply on the issue. While he did not directly threaten to veto the bill again, the President denounced it in his budget talk on radio last weekend, saying, "I'm in favor of clean water, but the only thing clean in this bill is its name. It spends billions more than is needed."

The President battled last year to hold the cost to $6 billion, phasing the program out over three years. But on the same day he condemned the congressional version on the radio, he signed his new budget, which offered a compromise at $12 billion. The House ignored the offer in passing the 1987 version of the $20-billion program on Thursday on a vote of 406 to 8. The Senate should do the same, making it clear that another veto will be overridden. The President managed to avoid an override last year only by using his pocket-veto authority just two days after the November general election.

The need for a substantial investiment is evident. The City of Los Angeles alone must spend $2.3 billion over the next decade to bring its sewage-collection, treatment and disposal system up to state and federal standards. The absence of each federal dollar of assistance would mean another dollar tacked onto the city sewer fee-amounting to a regressive tax that would fall most heavily onto low-income Angelenos.

A city official noted that most large Eastern cities rebuilt and expanded their sewage systems with massive help from Washington in the early more generous days of the program. "The Eastern cities got theirs, for sewers and subway systems," the official said. "We at the end of the line."

Without a murmur-about "budget-busting," the President did not hestitate last year in signing legislation authorizing $16 billion for dams, canals, ports and similar projects. On reflection, perhaps he will recognize that comparable spending for clean water is a solid investment in the nation's environmental and economic, health.

[From the Washington Post-Intelligencer, Nov. 10, 1986]

President's Ear Shut on Water Bill

On the day President Ronald Reagan came to Spokane to campaign for Slade Gorton, Sen. Dan Evans said not to worry about the Clean Water Act. Rumors of a pocket veto were unfounded, he insisted, and just to make sure, he and Senator Gorton would mention the matter to the president that evening.

Last Thursday, just one week later, the rumors proved accurate and Evans was proved dead wrong. The White House announced that the president had refused to sign the measure that would have provided $18 billion over several years to help local governments build sewage treatment and wastewater facilities. Too expensive, the president said, ignoring the wishes of Congress, which had passed the bill by a unanimous vote, and the urging of his own Environmental Protection Agency administrator, Lee Thomas.

Although there is still some federal money available for 1987, the loss of future funds would be a severe blow to this state's effort to protect Puget Sound and other waters threatened by pollution. Gov. Booth Gardner calculated the veto would cost Washington $17.5 million in direct grants, $148 million in loans from a revolving fund and 80 jobs. A spokesman for the Puget Sound Water Quality Authority said that lack of federal money would delay its six-year, clean-up plan. Metro stands to lose about $100 million.

There has, of course, been another change since Evans and Gorton met with the president in Spokane. Democrats have taken control of the Senate and Democrat Brock Adams has defeated Republican Gorton. Democrats, with majorities in both houses, already have vowed to rush through a new Clean Water Act immediately after Congress convenes in January and say they will over-ride another veto. One can hope, but moving any bill through Congress is rarely that easy.

Meanwhile, there is another problem: The Columbia Gorge.

Rumors already are flying that Reagan also will exercise a pocket veto on the measure that would preserve the Gorge as a National Scenic Area. Unless the president signs the bill by midnight Nov. 17, it will die.

According to the Portland Oregonian, Attorney General Edwin Meese's Justice Department doesn't like the Gorge bill because it would give the Forest Service temporary jurisdiction over some privately owned land. Because the compromise that finally won passage of the hard-fought Gorge bill was so fragile, chances of Congress reviving that measure are much smaller than those favoring the Clean Water Act.

Given the vagaries of politics and politicians, however, nothing is certain. One can conclude, though, that the fact President Reagan is unlikely to heed the pleas of a bipartisan Evans-Adams Senate team makes little difference. Evidently, on environmental matters, he didn't listen to Evans and Gorton, either.

[From the Seattle Times, Nov. 6, 1986]

Reagan Shouldn't Veto Clean-Water Legislation

President Reagan reportedly is considering a veto of the $18 billion Clean Water Act reauthorization, which Congress passed—unanimously!

With Congress not in session to override him, Reagan could "pocket veto" the bill—simply not sign it. That would be a big mistake.

This legislation has been floating around like flotsam far too long. The original act expired in 1982. Both House and Senate passed reauthorization measures in 1985. A conference committee has been trying to reconcile differences for more than a year. The compromise version isn't perfect, but it's as good as the nation is likely to get.

For Washington state, it would provide about $42 million annually in grants and loans over the next eight years to help build secondary sewage-treatment plants that the law is being interpreted to require.

Many experts continue to believe that secondary treatment is not truly cost-effective in all parts of Puget Sound. But members of the state's congressional delegation insist that politically there's no realistic possibility of waiving the requirement, since most of the nation has complied. There may—and should—be some flexibility in compliance deadlines, however.

In addition to plant-construction funds for Metro and other sewage-treatment agencies, the bill would provide some money aimed at nonpoint-source pollution, storm-water runoff, combined-sewer overflows, and estuary research—all of which could greatly benefit Puget Sound.

If the federal government is going to continue to require certain clean-water technologies across the board, without regard to their impact on water quality, it should indeed provide some financial aid to this and other states. Reagan should keep this bill out of his pocket, put it on his desk, pick up his pen, and sign it.

[From the Orlando Sentinel, Nov. 8, 1986]

Politics Dirties the Water

President Reagan proposed a bad bargain this week. By vetoing legislation to strengthen the Clean Water Act, he was urging Congress to trade off clean water to save some money. The fact that he waited until after Election Day suggests that voters don't want such a deal.

And Congress doesn't want it either: What Mr. Reagan rejected passed the House and Senate without a single no vote. Clean water is a national commitment.

The veto message made it sound as if Congress wants Washington to spend three times as much as the White House believes is necessary to help communities treat their sewage. That's misleading. Congress approved $9.6 billion in federal construction grants through 1990, while the administration proposed spending $6 billion. That's hardly a dramatic difference, and in light of the problem, Congress is right.

Starting in 1990, Mr. Reagan would leave states to fend for themselves. More sensibly, the vetoed bill would phase out the federal role. Washington would provide $8.4 billion spread over six years, beginning in 1989, to help states start loan pools for building sewage facilities. So, yes, Congress unanimously has approved a lot of money, but it's to be spent over a nine-year period on a national priority.

Such federal aid has paid more than half the cost of Conserv II, the wastewater irrigation project that Orange County and Orlando have been building. The aid also is what Sarasota is depending on to stop pouring sewage into Sarasota Bay. For projects statewide, Congress' plan would mean a slight reduction in aid—which now is about $82 million annually—during the next few years.

But don't assume that Mr. Reagan's plan to cut funding by about a third in the near term would leave Florida no worse off than other states. According to state officials, Florida in 1983 took Washington up on an option—lowering the federal share of a project's cost and thus letting this aid go toward more projects. That involved redefining all Florida projects as "new." Now Mr. Reagan wants, in a pound-foolish fashion, to eliminate all federal aid to new projects. It would be a disaster for Florida.

If Mr. Reagan really had wanted to squeeze money out of water, he could have rejected another item gathering dust on his desk. It's a multiyear, $16 billion package for waterways, ports, beach restoration and other water projects. True, that measure includes the long-overdue step of blocking any new construction on the Coast-Florida Barge Canal. But that item and other priorities don't need to be part of a porky smorgasbord.

Instead, Mr. Reagan vetoed a clean-water program that no one opposed. It was so spectacular an error that some lawmakers started talking about adding money to the bill before passing it again. That's juvenile. The right rejoinder: Pass it again without changing even a comma.

[From the Wilmington News Journal November 8, 1986]

Clean Water Veto Unwise

Let's face it," said an environmentalist about President Reagan's pocket veto of a clean water bill, "the man is not an environmentalist." Let's face it, if organized environmentalists had written the bill in question all by themselves, its price tag would not have been $20 billion, as was the case, but would have been $40 billion, or $60 billion or more.

The president's expressed reason for his veto, triggered Thursday night when he had failed to sign it before deadline, was monetary. The spending it called for, he said, "exceeds acceptable levels." The $18 billion the measure included to construct sewage treatment projects in all 50 states was three times as much as he had sought for that purpose.

Some initial reaction to the veto was political. The president, said Sen. Daniel P. Moynihan, "could have avoided a confrontation with the new Congress." Now through the veto, said the New York Democrat, "he has one." An environmentalist spokesman called it an "outrage" that Mr. Reagan did not tell the public before the election that he intended "to veto such an important public health bill."

Well. Money and politics are both important factors in cleaning up the environment. Some confrontation between the Republican president and a Congress now ruled by Democrats was inevitable. And all of those environmentalists now running around and waiving their arms had pretty good indications before the voting that such a veto was possible.

The same measure, members of Congress from both parties vowed, will be introduced promptly in the 100th Congress and, given concern for clean water programs in all states, presumably will be passed with enough support to override an in-session veto. It probably occurred to at least some members that passing the bill in the final days of the 99th Congress, and letting it be pocket-vetoed when they could not vote to override, would play well in their home states and districts.

The money and the politics aside, it is regrettable that Mr. Reagan, against the counsel of his own environmental chief, the EPA's Lee Thomas, is causing this delay in the almost certain enactment of the legislation.

First and foremost for this area is that the veto blocks a $13 million program specifically targeted over the next four years for curbing pollution from remote points in the Chesapeake Bay. That does nothing for the credibility of the pledge voiced by the president to seek help especially for that great and troubled estuary.

The Chesapeake also is one of 34 "toxic hot spots" around the nation identified by the National Wildlife Federation.

There will be delay, now, in stemming urban and farm runoff pollution, which the reauthorization bill would have addressed for the first time, and, of course, the program for improving sewage treatment throughout the nation is postponed.

Then, too, before the bill is reintroduced, passed and a possible new veto overridden, the brute passage of time will have increased costs of all of these programs.

It probably does not enhance the president's political position that one day before the veto, the Environmental Protection Agency, headed by Mr. Thomas, sounded a warning about lead in the nation's drinking water supplies. An EPA report on Wednesday stressed that a new set of rules it would propound to reduce that amount by more than 50 percent, would produce a net savings to the nation of $800 million a year, in areas ranging from health costs to corrosion damage to water systems caused by this substance.

And another report this week—one dramatic improvement in the cleanliness and productivity of the Hudson River system in New York—also underlined the practicality of intensive governmental involvement in protecting our water resources.

All in, and conceding the president's concern for limiting federal spending programs, he probably will, and should, take a bath on this one.

[From the Arkansas Gazette, Nov. 9, 1986]

A Reckless Veto by Mr. Reagan

President Reagan's veto of the new Clean Water Act merely postpones the inevitable. This legislation, or something very close to it, will be passed again by the next Congress and it will be passed over Mr. Reagan's veto—as it would have been this time if he hadn't waited until after Congress had adjourned.

The original Clean Water Act, first passed in 1972, began the restoration of our nation's lakes and rivers; it was a landmark of environmental legislation. After that act expired in 1981, Congress was unable to agree on a new bill, and water cleanup proceeded only under *ad hoc* extensions until this year, when environmentalists got Congress to agree on a new compromise bill.

Among other provisions, the new bill would target "toxic hot spots" around the country for cleanup. These are the nation's most severe water-pollution problems. The bill passed both houses unanimously.

Mr. Reagan said that he vetoed the bill because it cost too much—specifically, the $18 billion it appropriates to complete essential sewage treatment plants around the country. But some must wonder, as the director of the Clean Water Act Project wondered aloud, whether this wasn't also a show of anger, or bravado, prompted by the Democratic victory in the elections Tuesday.

Whether he acted out of pique or principle, Mr. Reagan's veto is ill-advised. At a time when he should be seeking conciliation with a Democratic-controlled Congress, he is picking a fight that he can't win. More importantly, he is delaying the badly needed cleanup of the water that Americans drink, and in which they swim and fish. And who knows the cost to public health? The National Wildlife Federation says that every day without the new Clean Water Act, 465,000 more pounds of toxic pollutants are dumped into lakes and rivers.

Penny-wise, Mr. Reagan's veto may be. Pound- and politics-wise, it is foolish.

[From the Philadelphia Inquirer, Nov. 9, 1986]

PLAYING MACHO ON WATER BILL

In vetoing the Clean Water Act, President Reagan criticized its price tag: $18 billion spread over eight years. He wanted a $6 billion authorization. But was cost the reason he rejected a bill passed unanimously by Congress, a bill that writes the conclusion to a remarkable environmental success story, a lean bill that by all accounts is the best he can get from Capitol Hill?

The answer is no.

Mr. Reagan and his close advisers, Chief of Staff Donald T. Regan and Budget Director James C. Miller 3d, remain ideologically bound to the idea that the federal government has no role in improving the environment.

The facts refute that, of course. Until two decades ago, when the federal government began setting standards and providing financial aid, the nation's air and waterways were foul. Local and state governments had no real incentives to eliminate pollution. Why spend local taxpayer's money to purify water or air if the community or state next door did nothing? Dirty air and water don't respect governmental boundaries. It is a national problem deserving a national commitment.

Among all the environmental initiatives begun in the last 20 years, none has been as successful—or popular—as the effort to clean up the nation's waterways. Americans are swimming in lakes and rivers they couldn't even bear to walk alongside 10 or 20 years ago. Communities now use waterfronts as magnets for commercial and residential development.

The 1986 Clean Water Act was to be the final chapter in this story, ironically a chapter written with the indelible influence of the Reagan administration. The White House wanted an end to a federal cost-sharing construction program that since 1972 has provided $44 billion for new sewage-treatment plants. Congress agreed, establishing a revolving construction loan program while phasing out construction grants.

Mr. Reagan also pledged an active federal involvement in cleaning up Chesapeake Bay. The bill provided funds to improve sewage treatment along the bay's rim and designated millions of dollars to control runoff from urban and agricultural lands—pollution that is strangling the bay.

Many in Washington believe there was more to the veto than ideology. Mr. Reagan wanted to send a "macho message" to the incoming Congress that he intends to play hardball. Congress can play the same game.

Mr. Reagan was able to veto the bill after the election—thus minimizing the political damage of his action—because of some complicity in the Senate leadership who delayed getting it to his desk.

That delaying tactic may have its price, however. The new Congress may be tempted to make the measure even less appealing to the White House, knowing that there will be enough votes for an override. Yet it also would open up the Democrats to Mr. Reagan's favorite charge that they are the "spend and spend" party. For that reason, Congress ought to send Mr. Reagan the same bill it sent this year and override the presumed veto by a wide margin.

The Clean Water Act is a good, solid, no-frills measure that should have become law in 1986 and must become law in 1987.

[From the Tallahassee Democrat, Nov. 9, 1986]

CLEAN WATER: RETURN BILL TO THE PRESIDENT

A tricky little maneuver let federal lawmakers get credit, just before election, for passing a water cleanup bill that would have sent billions of dollars back to their home states, while allowing President Reagan to veto the measure—after the elections. That veto came Thursday.

The president has 10 days, not including Sundays, to veto or sign bills. The Clean Water Act of 1986 cleared Congress on Oct. 16, but it was delayed by the secretary of the Senate, who works for GOP leader Robert Dole, and didn't reach the president's desk until Oct. 24. Had it not been for that delay the president would have had to act before the election.

The water act was as popular as could be in the days just before the election: It passed the House 408-0 and the Senate 96-0. Will it be as popular next year, when there are no elections? We'll see, because Rep. James Howard, D-N.J., chairman of the House Public Works Committee, said he plans to reintroduce the bill and "send it right back to the president."

It should go back to the president. Cleaning up the nation's waterways becomes more expensive each day of delay. President Reagan's veto, made under the guise of money saving, will cost taxpayers money in the long run.

The act authorized $18 billion in grants and loans to help build local sewage treatment plants and $2 billion for other programs, including administration and regulation. Some regulatory provisions—cities and industries are required to get permits and clean up waste water before discharging it—were tightened while unrealistic cleanup deadlines were extended.

Some $400 million was included over the life of the bill to help control "non-point source" pollution, which results from diffuse runoff in such diverse places city streets and farm land. A new program was aimed at "toxic hot spots"—bodies of water that fail to meet standards also cities or industries have installed the cleanup facilities required by the law.

The carefully balanced bill would gradually shift the cost of sewer construction to local government, ending the U.S. involvement in 1994. Currently, local governments pay about half of construction costs and all of operating costs. Increasing amounts of federal money would go into revolving loan funds to be administered by the states. When loans were repaid, with interest, the money would be loaned again to finance new projects.

The bill had authorized $2.4 billion a year for construction during fiscal 1986-88, then $1.2 billion a year through 1990. Federal financing of the revolving funds would begin at $1.2 billion in 1989, rising to $2.4 billion in 1991, then tapering down to $600 million in the final year, 1994.

That's a reasonable and responsible way to meet a pressing problem and provide machinery to prevent the problem from arising again. Reagan's plan—to dump $6 billion into the plan during three years and then forget it—is not.

The nation's lakes and streams deserve protection now; it is much more difficult, and costly, to clean up a polluted river than it is to prevent its pollution in the first place.

Lawmakers should demonstrate that they really were more interested in protecting our waterways than in protecting their seats when they voted for the Clean Water Act. They can do that by sending the bill right back to the president. And overriding any veto.

[From the Atlanta Constitution, Nov. 10, 1986]

WATER ACT VETO AN ALL-COUNT LOSER

Say this for President Reagan. After his party lost control of the Senate in Tuesday's elections, he immediately if inadvertently went about building a Republican and Democratic coalition in Congress, at least on one issue: Both sides agree that his pocket veto of the Clean Water Act was foolish.

First, it's bad politics. In waiting until after the election to kill the act, the White House tried to sneak one past the electorate so as to minimize the negative repercussions upon GOP candidates nationwide. In doing so, Reagan's spin specialists have only embittered opponents and made life difficult for embarrassed Republican colleagues who don't have access to Reagan's Teflon bunker.

Second, it's bad governance. To hold off federal action on water-treatment and prevention/enforcement programs is automatically to push up their cost, once you factor in inflation and the inevitable growth of pollution problems and attendant public health hazards. It's insupportable to dally when human health and even lives are at stake.

Until the president shoved the Clean Water Act into his hip pocket, there never was any question of partisanship on this issue. The measure is the product of four years' hard work in congressional committees and cloakrooms. Ecology groups like it. Affected business associations like it. Reagan's own Environmental Protection Agency administrator, Lee Thomas, likes it. And it passed the Senate and the House without a *single* dissent, 96-0 and 408-0 respectively.

Against all that, the president quibbles about the program's price tag—three times as much as the $6 billion he had asked for but covering twice his proposal's four years' duration. With his eye riveted to the bottom line, he is oblivious to the clean-water investment's benefits, not only in health and recreational terms but for a salubrious national business climate as well.

The act's advocates are disappointed, but they're not discouraged. Democrats and Republicans alike plan to resubmit it intact as a first order of business in the 100th Congress. The measure should sail unhindered toward quick passage, so long as the new Senate committee chairmen are surehanded and no one, mischievously or mistakenly, weights the bill down with amendments.

With luck, the act could make a return appearance on the president's desk by early February, at which point he would either have to sign it or face the certainty of a veto override. And regardless of his predictable protests at that critical juncture, he won't be a victim of a "confrontational" Democratic Congress. He chose to pick this fight, with Republicans as well as Democrats. He deserves the consequences.

[From the Sacramento Bee, Nov. 11, 1986]

CLEAN WATER, POSTPONED

The Republican majority in the U.S. Senate may be gone but the memory lingers on. In the closing days of the last Congress, after both houses had unanimously passed an $18 billion bill to clean up the nation's rivers and water supplies, the Republican leadership in the Senate quietly held the bill for three days before sending it over to the White House. That way, President Reagan didn't have to meet a constitutional deadline that would have required him to announce that he was going to kill this politically popular program on the day before the election. As things turned out, the ploy didn't save any Republican seats when the voters went to the polls. And since the president has now vetoed the bill by refusing to sign it after Congress has adjourned, there will be no opportunity to override his decision.

As a result, those three days could wind up causing a two-year delay in renewing America's clean-water program. Because of the complexity of the legislation, the welter of local interests that have to be accommodated, and the change in the Senate leadership, that's how long some lawmakers are predicting it will take to negotiate a new bill. That's too high a price to pay for a little clumsy parliamentary legerdemain by the GOP. Congress should send the same bill back to the president as soon as it reconvenes in January. If he still won't sign it, there shouldn't be any problem with overriding his veto.

[From the Tampa Tribune, Nov. 13, 1986]

THE PRESIDENT ASKS FOR IT

Two days after the Republicans lost control of the Senate, President Reagan, by vetoing an extension of the Clean Water Act, drew a line in the sand for the new Congress to cross.

Congress should cross the line.

The White House contains some of the few people in the country who do not recognize the value of the Clean Water Act, which regulates discharges from industries and sewage. Originally passed in 1972, the law has helped in cleaning up the nation's lakes, streams, and coastal waters. Under the program, the federal government provides local governments with up to 55 percent of the money needed to build sewage treatment plants.

The Clean Water Act has been enormously efficient and popular, restoring many waterways that had been too polluted for swimming or fishing. Indication of its success came when the House by a 408-0 vote and the then Republican-controlled Senate by a 96-0 vote approved extension of the law.

But the president apparently cares little how Congress, or the voters, feel about the issue. He vetoed the bill. Since Congress has adjourned for the year, it cannot override the veto.

Mr. Reagan objected to the $18 billion Congress provided the program for fiscal 1987-94. That figure is less staggering than the task. The administration itself estimates $100 billion is needed to build sewage treatment plants by the end of the century. The economic and health benefits of cleaning up our waters more than justify the expense.

The president wants to end current federal grants after spending $6 billion through fiscal 1989, meaning only projects already under way would be funded. With most states unable to take up the burden, that would abruptly halt the fight against water pollution. Many projects to control sewage and storm runoff that pollute such resources as Tampa Bay could go undone.

The Clean Water Act extension had a sound plan to protect water while reducing federal involvement. Direct federal grants would be replaced by state-run revolving loan funds for local governments. Federal grants would get the loan funds started.

That sensible plan should prevail when Congress convenes in early January. Sponsors plan to introduce the bill on the first day of Congress and expect quick passage. Another Reagan veto is likely to be quickly overridden.

By vetoing the Clean Water Act, the president invited a prompt challenge to his policies by the Democratic Congress. He deserves to get his lump.

[From the Salem (OR) Statesman-Journal, Nov. 12, 1986]

VETO SETS BACK CLEANUP

President Reagan's veto of legislation to strengthen the federal Clean Water Act is another example of this administration's misplaced priorities.

The $18 billion earmarked by the legislation to help clean up the nation's rivers, streams, lakes and other bodies of water is a lot of money, of course. But those waters did not become polluted overnight. That occurred during a long period of neglect.

The president used the pocket veto to kill the measure. That occurs when a president declines to sign a measure within 10 days of receiving it and the Congress is not in session.

The veto does not end the matter, however. A bipartisan group plans to reintroduce the legislation when Congress reconvenes in January.

The bipartisan support for the measure was clearly shown in the votes in the two houses of Congress. This latest set of amendments to the Clean Water Act passed both houses without dissent.

Republican Sen. John Chafee of Rhode Island, one of the chief sponsors of the measure in the Senate, correctly called the veto shortsighted in view of the environmental needs of the nation.

The vetoed legislation included amendments calling for several actions to help make the nation's waterways swimmable and fishable again. Those included actions to:

Require control of runoff from urban streets and farms, which is a major source of pollution.

Require special efforts to clean up hazardous chemicals in bodies of water and give new authority to environmental agencies to prosecute and penalize violators.

Extend the federal program of grants to local communities to build sewage treatment facilities to 1994, rather than 1990 as the president wanted.

Gov. Booth Gardner of Washington said the veto is another chapter in the same old story. He said the veto could come close to wrecking Washington's program for cleanup of Puget Sound and other water pollution hot spots around the state.

The widespread support for the legislation is understandable. The continuing and increasing fouling of our water supplies is one of the major environmental problems facing this nation. All of Congress seems to realize this fact.

Where better could we spend our federal tax resources than to restore and protect those vital water resources?

It's time the president and his handlers realize that our environment is not forever forgiving. Without strong support for clean water and clean air, the billions of dollars we spend for national security won't mean much. The eventual legacy could well be a lifeless land that has no one to defend it and is not worth defending.

Mr. MITCHELL. Mr. President, recently I and all other Senators received a letter from the White House asking that we vote for the administration's substitute to the clean water bill, which is the now-pending amendment offered by Senator DOLE.

The letter states:

> The lower outlay levels of the substitute amendment will not adversely affect the ability of the States to meet their 1988 clean water requirements.

I disagree. So do many others, knowledgeable in this area.

As an example, the distinguished chairman of the Environment and Public Works Committee, Senator BURDICK, and I recently received a letter from the Association of State and Interstate Water Pollution Control Administrators. This is a national association of professional water program managers. These are the people who manage our Nation's water programs on a day-to-day basis.

The letter from the State administrators refers to the municipal compliance deadline and states:

> The $18 billion amount adopted by the Congress in 1986 is essential to meeting this congressionally imposed deadline.

The letter goes on to say that under the administration's recommended funding level, more than 1,300 American communities will be eliminated from participation in this program, and the timeframe for municipal compliance will be increased by more than 33 percent.

This analysis by professional State program administrators directly contradicts the assertion by the White House. I believe that the professional program administrators are most likely to see this issue clearly and fairly.

Mr. President, I ask unanimous consent that the letter from the White House and the letter from the professional water program administrators be included in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, DC, January 20, 1987.

Hon. GEORGE J. MITCHELL,
U.S. Senate,
Washington, DC.

DEAR SENATOR MITCHELL: On behalf of the President, I am writing to urge your support for a substitute amendment introduced by the Republican Leader, Senator Dole, for H.R. 1, the Water Quality Act of 1987.

The President strongly favors the clean water programs in both H.R. 1 and the Administration-supported substitute. The two bills contain substantially the same clean water provisions. The issue is simply one of excessive spending rather than clean water.

The proposed substitute will achieve the same environmental goals as H.R. 1 while reducing outlays by over $6 billion through 1994. The table below provides a comparison of estimated outlays for both H.R. 1 and the substitute amendment:

Estimated outlays

[In billions of dollars]

H.R. 1:	
Fiscal years:	
1988	2.9
1989	3.3
1990	3.6
1991	3.4
1992	3.4
1993	3.0
1994	2.1
Substitute:	
Fiscal years:	
1988	2.7
1989	2.6
1990	2.6
1991	2.2
1992	1.9
1993	1.6
1994	1.3
Savings:	
Fiscal years:	
1988	0.2
1989	0.7
1990	1.0
1991	1.2
1992	1.5
1993	1.4
1994	0.8

The lower outlay levels of the substitute amendment will not adversely affect the ability of the States to meet their 1988 clean water requirements.

I hope you will consider these facts before the Senate acts on these matters tomorrow, and that you will vote for the substitute offered by Senator Dole in order to support clean water and to help reduce the deficit.

With best wishes,

Sincerely,

WILLIAM L. BALL III,
Assistant to the President.

ASSOCIATION OF STATE AND INTERSTATE WATER POLLUTION CONTROL ADMINISTRATORS,
Washington, DC, January 19, 1987.

Hon. QUENTIN BURDICK,
Chairman, Senate Environment and Public Works Committee, Washington, DC.

DEAR SENATOR BURDICK: The Association of State and Interstate Water Pollution Control Administrators (ASIWPCA) strongly supports the Senate amendments (S. 1) to the Clean Water Act (originally passed as S. 1128). The State managers of this nation's water quality program urge your immediate passage of this legislation because it (1) modifies the existing Construction Grants program to respond to burgeoning municipal wastewater needs; (2) provides a responsible transition from the Federal government construction grant program to self-sustaining State and local programs; and (3) recognizes that this nation's nonpoint source problems warrant Congressional attention.

The Clean Water Act legislation, passed unanimously by the Congress in 1986, is the product of nearly 5 years of public and political debate, and while some view the price tag for this critical legislation as being "a budget buster," in truth the bill provides the minimum funding necessary to assist Local governments in their efforts to meet the Federally required mandates of the existing law. Should additional budget constraints become necessary to meet nationally supported deficit reduction efforts, such reductions could be addressed through the appropriations process.

The States have reviewed the draft legislation being portrayed by the Administration as a funding compromise. And, while some of the proposals have merit, the Association is concerned that the proposal goes far beyond "money matters" and will, in the long term, hamper State and local water pollution control programs. Specifically the Administration proposes to:

Reduce the authorized level of funding from $18 billion, as unanimously supported by the Congress, to $12 billion. While the Administration's funding proposal, up from their original figure of $6 billion, demonstrates some recognition of the importance of this program, the $12 billion amount is simply inadequate to meet our country's water quality needs. The Congress has mandated that every local government meet secondary treatment standards by July 1, 1988, or face enforcement actions from State or Federal environmental officials. The $18 billion amount adopted by the Congress in 1986 is essential to meeting this Congressionally imposed deadline.

Devise a long term strategy for outlay controls which in essence removes the incentives for State and local governments to participate in the State Revolving Loan Fund Program. The SRF process was specifically designed to enhance program efficiency, provide adequate grantee assistance, ensure long term self sufficiency, and remove unnecessary "Red Tape." The Administration's proposal will most certainly constrain the effectiveness of State Programs by attempting to manage their programs under rules and procedures more cumbersome than those already in place for construction grants. This overly complex process for the implementation of State Revolving Loan Funds will most certainly delay the attainment of the July 1, 1988 municipal enforcement deadline.

Eliminate the entire nonpoint source control program. The nonpoint source program approved by the Congress is enthusiastically supported by the States, Local government and the public at large. To suggest that the States set aside a portion (up to 11%) of their municipal wastewater treatment allotment for the implementation of nonpoint source controls, is an unjustifiable diversion of funding that will lead not only to further delays in municipal compliance, but will not provide the support necessary to address the nonpoint source pollution problems as documented in the Association's recent report, America's Clean Water: the States Nonpoint Source Assessment 1985, (enclosed).

Municipal Funding.—The U.S. Environmental Protection Agency (USEPA) has, in its most recent Needs Survey, documented in excess of $36 billion in core needs for the municipal wastewater treatment program to the year 2000. The Association has research to indicate that 3300 communities are in imminent danger of not meeting the July 1, 1988 compliance deadline unless funding is made immediately available. Clearly, the $18 Billion provided in S. 1 for municipal wastewater treatment is consistent with the Federal responsibility. We estimate under the Administration's recommended funding level that:

More than 1300 communities will be eliminated from participation in the financing program;

The time-frame for municipal compliance will be increased by more than 33%. Hence, a large number of communities will not meet the municipal deadline and will face significant enforcement penalties, and

The termination of the 20% Governor's Discretionary Fund will eliminate the opportunity for States to address high water quality priorities (e.g. collector systems, reserve capacity and combined sewer overflow).

State Revolving Loan Programs.—The Senate bill establishes a State Revolving Loan Program which will assure a meaningful transition from Federal grants to State and local self-sufficiency. This is the first time, in recent history, that a massive capitol investment grant program has been essentially eliminated with the support of the States and the grantees. This is a significant accomplishment for which the Congress is to be complimented. However, without an adequate transition, the tremendous strides toward cleaner water may well be significantly retarded.

The Administration proposal diminishes the viability of the loan program in many States by eliminating credit enhancement techniques and State loan guarantees for Local governments. S. 76 severely restricts outlays, increases Federal matching requirements, and limits innovative financing mechanisms. The loan program envisioned in S. 76 would be too cumbersome and too costly to be useful in many communities, especially the smaller communities which are in the most acute need of funding assistance.

Nonpoint Sources.—As documented in the ASIWPCA report there are in excess of 165,000 river miles and 8.1 million lake acres adversely impacted by nonpoint sources. Under the Congressional approach, these problems would be addressed and funded. State and Local governments look to the Clean Water Act for consistent policy and modest support.

Such support and guidance cannot be accomplished under the Administration proposal which terms the resolution of nonpoint source problems as being optional and limits Federal support to use of the already overburdened, rapidly diminishing municipal financing funds. Therefore, under the Administration bill:

The overwhelming majority of States will be unable to fund nonpoint sources, and

An estimated 840 watershed projects throughout the country will be neglected. These problems include the pollution of drinking water supply, fish and aquatic life, and groundwater from: toxics, nitrates, pathogens, pesticides, nutrients, and sediment.

In summary, the Congressionally passed Clean Water Act (S.1) provides the requisite authority, funding support and flexibility necessary for State and Local governments to achieve the goals of the Act within a reasonable time frame. To the contrary, the Administration bill puts States in an untenable position by creating an unworkable revolving loan program, endangering state transition to self-sufficiency, exacerbating municipal compliance problems, and abandoning nonpoint source control.

Working closely with the Congress, State and Local government officials, as well as a plethora of constitutent environmental professionals have labored diligently, over the last 5 years, to resolve tremendously complex and politically sensitive issues. This collegial effort has produced a statute that is technically and politically supportable, as well as realistic in scope. To further delay the passage, funding and implementation of this vital legislation would be a travesty. The citizens of this nation demand clean water, and the State administrators are in need of the tools, provided by Congress, to ensure the continued success of this program. We therefore urge you to pass S.1 immediately and send it to the President for his signature.

Sincerely,

Roberta (Robbi) Haley Savage.

Mr. MITCHELL. Mr. President, I yield 4 minutes to the distinguished Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia is recognized for 4 minutes.

Mr. WARNER. Mr. President, I rise with other colleagues today to support S. 1, the Water Quality Act of 1987.

Mr. President, this act will provide very substantial benefits for the State of Virginia. The sewage treatment construction grant provision of S. 1 will provide millions of dollars to communities in my State to upgrade existing sewage plant facilities and to replace older ones now inefficient.

The Virginia Legislature and our Governor have already worked to provide $10 million for a revolving fund to assist these localities in meeting the existing standards of the Clean Water

Act.

This legislation also has great benefits for Chesapeake Bay, a national tresure which we are proud of in our great State.

Through the years, particularly since 1983, many efforts have been made by all the bordering States to form an agreement to enhance and restore this national treasure. Sewage treatment under this bill will be an essential step forward, for the bay receives its nourishment from many streams and creeks that feed into this estuary—the James, the York, the Rappahannock, the Potomac, and Susquehanna, all of which empty into the Chesapeake Bay—any improperly treated sewage carried through these streams from our cities and towns into the bay.

Eighteen billion dollars in grants in this particular legislation will surely enhance our efforts to control such nutrients, wastes and toxics that are currently destroying our bay.

Mr. President, as an original cosponsor of S. 1, and a supporter of the identical legislation that was unanimously approved by the Senate last Congress, I wish to cite the enormous benefits this legislation will bring to the ongoing Chesapeake Bay Restoration Program.

First, Mr. President, as a new member of the Committee on Environment and Public Works, I want to commend my colleagues, Senator CHAFEE, Senator MITCHELL, Senator STAFFORD and Senator BURDICK for their continued leadership in this effort and I look forward to working with them.

One of my first initiatives after I was elected a Member of this body was joining with our former colleague, Senator Charles Mathias, in focusing national attention on the critical pollution problems in the Chesapeake Bay.

Following several discussions with President Reagan, our colleagues in the Congress and other executive branch agencies, President Reagan recognized the bay as a "special national resources" in his 1984 State of the Union Address to the Congress.

I am very satisfied that we have been successful in securing $10 million for each of the past 4 years to strengthen the Environmental Protection Agency's continued involvement in the bay cleanup program.

An additional $3.8 million has been approved for other agencies including the Soil Conservation Service, the Fish and Wildlife Service, the National Oceanic and Atmospheric Administration and the Army Corps of Engineers.

The importance of a revitalized bay, as these actions clearly indicate, reaches far beyond Virginia, Maryland and other States that directly touch the bay.

The Chesapeake Bay has always been a vital resource of the United States.

The bay's popularity itself may be the single greatest cause of its decline.

Each year the bay provides millions of pounds of seafood, supplies a huge natural habitat for wildlife, functions as a major hub for shipping and commerce, and offers a wide variety of recreational opportunities for residents and visitors.

Through the Chesapeake Bay Agreement joining the Federal Government and Virginia, Maryland, Pennsylvania, and the District of Columbia, we have demonstrated widespread bipartisan support for the bay cleanup effort as a national priority—not just a local or regional responsibility.

I join in cosponsoring S. 1 and renew my commitment to this effort.

The sewage treatment construction grant provisions of S. 1 will provide millions of dollars for Virginia communities to upgrade existing sewage treatment plants and to replace older inefficient sewage systems. Virginia's Governor and legislature have already appropriated $10 million for a revolving loan fund to assist localities in meeting the existing standards of the Clean Water Act. The legislation will be beneficial for Chesapeake Bay.

With all the efforts that have been initiated since the 1983 Chesapeake Bay Agreement which brought together the States and the Federal agencies, this progress will be in vain without the sewage construction grants program.

The Chesapeake Bay basin receives water from streams and creeks that feed into five magnificent rivers: The James, the York, the Rappahannock, the Potomac and the Susquehanna, all of which empty into the bay.

Improperly treated sewage is carried from our cities and towns by these tributaries into the bay. The $18 billion grants program will surely enhance our efforts to control nutrients and toxics that are poisoning our bay.

A further benefit of S. 1 is the new $400 million nonpoint source pollution control program. Since the inception of the Chesapeake Bay program, studies have revealed that pesticide runoff from our farms and industrial runoff from our city streets create nealy 50 percent of the pollution found in the bay.

The Soil Conservation Service has been working with our farmers to educate them on better management practices. This new program will surely enhance their efforts.

This legislation also authorizes $52 million for a 4-year effort to ensure the continuity of the Federal-State partnership of the bay program.

Mr. President, under the leadership of our former colleague, Senator Mac Mathias, the Chesapeake Bay is on the road to recovery. It has taken decades of neglect for the bay to get into this condition and it will take decades of attention to restore the bay to its complete health. Let us continue and strengthen our commitment to the bay by unanimously approving the Water Quality Act of 1987.

Mr. MITCHELL. Mr. President, I thank the Senator for his remarks.

I suggest the absence of a quorum. I ask unanimous consent that the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that further proceedings under the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, on behalf of Senator CRANSTON, I ask unanimous consent that Cathy Files, of his staff, be granted the privilege of the floor during consideration of H.R. 1 and all rollcall votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I yield 6 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 6 minutes.

Mr. DECONCINI. Mr. President, I thank the distinguished Senator from Maine. I am proud, Mr. President, to cosponsor the first piece of legislation for the 100th Congress, the Water Quality Act of 1987. I congratulate my colleagues on the Environment and Public Works Committee, particularly the new chairman, Senator BURDICK, from North Dakota, and of course the Senator from Maine, and others who have spent a great deal of time in the last Congress and now early on, for being able to report this bill before this body.

The availability of a clean and abundant supply of water for communities across this country is one of our most important national goals. The establishment of a well-defined policy to control water pollution in lakes and streams is a necessary component of a healthy economy. When the Clean Water Act was first enacted in 1972, it set this Nation on a course of regulatory action to insure the protection of water, one of our Nation's most precious natural resources. It is one of our most important, if not the most important, environmental protection law on the books. The reauthorization of this act is critical to allow us to continue the progress we have made over the years in cleaning up our Nation's water supplies.

You can't have laws which protect and regulate water quality without a financial commitment from the Federal Government. Although the reauthorization bill before this body today requires substantial sums of money, the long-term benefits to communities and citizens are immeasurable. Since the enactment of the Clean Water Act, substantial progress has been made in cleaning up the Nation's water supplies. EPA's 1984 national water quality inventory concluded that many of the most severe cases of water pollution that plagued this Nation in the 1960's have been abated because of the actions taken by the Federal Government under the provisions of the Clean Water Act. Another study conducted by the Association of State and Interstate Water Pollution Control Administrators in 1984 found that in 350,000 miles of streams monitored between 1972 and 1982, water quality improved in 13 percent, stayed the same in 84 percent and deteriorated in only 3 percent of the streams studied. So, our efforts are working.

However, with continued growth and industrialization throughout the country, new and serious pollution problems have emerged and some old ones are still pervasive. We need to undertake programs to control non-point-source pollution and toxic pollutants and to protect ground water resources. The committee bill effectively deals with a number of these growing concerns. It authorizes $400 million for a new State-Federal program to control non-point-source pollution which is believed to account for about 50 percent of all pollution in the Nation's waters. The bill also tightens controls on toxic discharges in areas where traditional methods of control have not been successful. It authorizes $85 million for efforts to improve water quality in lakes and $60 million to abate pollution in estuaries.

The cost of the bill is high—it authorizes $18 billion over 9 years for the sewage treatment construction grants program. However, State and local governments are required to build expensive sewage treatment systems to meet the Federal mandates. Without adequate funding from the Federal Government, many small communities will continue to face moratoriums on growth as a result of court orders. In order to achieve clean water by the year 2000, we will need to invest in the neighborhood of $100 billion for treatment facilities. The $18 billion in this bill is a far cry from the projected needs nationwide.

The Congress is just as concerned as this administration about budget deficits. But it is a matter of priorities. The American public expects to have access to an abundant and usable water supply. It expects the Congress to do the right thing to make sufficient funds available to meet our environmental quality objectives. There is a broad base of support for enactment of the bill introduced by my distinguished colleague and friend, Mr. BURDICK and others on the committee. While the Reagan administration touts its so-called compromise as a fiscally responsible measure, I believe water quality is too important an ideal upon which to compromise. S. 1 has over 70 cosponsors. The identical bill, H.R. 1, was passed by the House of Representatives by a vote of 406 to 8. Last year, the same legislation was passed by unanimous votes in both Houses of Congress. Members from both political parties and philosophies understand the importance of enacting a good strong clean water bill. I hope this body once again demonstrates its widsom by voting against a compromise and supporting S. 1 as introduced. We need to consider the long-term benefits of a strong and restrictive bill and not settle for short-term fiscal gains.

Once again, I congratulate my colleagues for their fine work on developing S. 1 and urge the Senate to adopt the legislation without amendment.

I again thank the Senator from Maine for his courtesy.

Mr. MITCHELL. I thank the Senator.

Mr. President, I yield 5 minutes to the Senator from Minnesota, to be followed by 8 minutes to the distinguished Senator from Rhode Island.

Mr. DURENBERGER. Mr. President, I thank my colleague.

I am pleased to join with the distinguished managers of the bill, the Senator from Maine and the Senator from Rhode Island, and my colleagues of the Environment and Public Works Committee in recommending H.R. 1, the Water Quality Act of 1987 for favorable enactment later this afternoon.

As has been said many times already, this is precisely the same legislation which the Congress passed last year and which the President declined to sign into law. The bill we have before us reflects many years of work by the managers of the bill and members of our committee, particularly its distinguished former chairman, the Senator from Vermont, Senator STAFFORD.

It is a bill that was put together by blending the views and concerns of many. It has bipartisan support here in the Senate. In fact, it passed both the Senate and the House by unanimous votes in the last Congress—an extraordinary testament to the spirit of compromise and conciliation that went into producing this bill. It also, and despite the fact it was vetoed, reflects many of the wishes by the President of the United States and his representatives in hearing and consultations with our committee.

The heart of this bill is the gradual phaseout of the Wastewater Treatment Construction Grants Program. President's since Dwight Eisenhower have been trying to limit the role of the Federal Government in municipal wastewater treatment. In 1960 Eisenhower sent up a federalism proposal that asked the Congress to terminate this grant program and promised to return the telephone tax to the states as a source of funds to support future sewage treatment plants.

In what will long be remembered as one of the most direct confrontations between the executive and legislative branches of our Federal Government, President Nixon attempted to impound funds that the Congress had appropriated for construction grants in the early 1970's. President Nixon did not win that struggle, and Federal spending for these grants was continued and even increased during the latter part of that decade.

When President Reagan came to office in 1981, he again proposed termination of this Federal assistance program in the interest of spending reductions. After long discussions with Members of both the Senate and the House, it was agreed that the Construction Grants Program would be restructured and that the funding level would be lowered substantially, but that the program would be continued for a period of approximately 10 years so that many of the high priority projects would be completed on a deliberate schedule.

H.R. 1, the bill we have before us, keeps the commitments made in 1981. It continues the program at $2.4 billion for the full 10-year period. But it also gives President Reagan a great victory in that it does definitely phaseout and finally terminate the Federal role in the Municipal Construction Grants Program. So President Reagan should be taking credit for his victories in this bill, not opposing it.

Mr. President, there are also some victories in this bill for my constituents in Minnesota, the land of 10,000 lakes, and a State that means water. I am particularly pleased that it contains provisions to protect the Great Lakes and implement the Water Quality Agreement of 1978 between the United States and Canada which is designed to reduce the level of conventional and toxic pollutants and nutrients which are discharged to waters flowing into the lakes. I sponsored this amendment in the committee along with the distinguished Senator from New York [Mr. MOYNIHAN], and believe that the toxic remediation, nutrient runoff, and research programs that it authorizes will do much to further the water quality improvements which have been bringing the lakes back to their status as a national treasure for recreation, wildlife, and pure water.

Another victory for my State and our neighbors in the Great Lakes region is the funding formula that will be used to distribute the construction grants dollars over the next 10 years. When the Senate first passed this bill in July of 1985, changes in the formula which would have significantly disadvantaged our region of the Nation were included. But in the conference with the House last year, the old formula was restored and thus the cities of Minnesota can count on approximately the same amount of assistance that has been available in the past. This victory was due in large part to the leadership and vision brought to the conference by the senior Senator from New York, and it is a happy circumstance for the people of my State that we had a shared interest with the citizens represented by Senator MOYNIHAN in this case. I must also give credit to two great Minnesota Congressmen, one from either party, Representative OBERSTAR and Representative STANGELAND.

Finally, Mr. President, I would dwell for a moment on the Non-Point Pollution Control Program which is included in these amendments to the Clean Water Act. I first offered a nonpoint pollution control amendment in the committee markup on this bill in 1983. I believe that it is was a stronger proposal than the package that we have here. It contained specific requirements and it also included deadlines. It was less planning and more action oriented. Although I would have preferred to do somewhat more in this reauthorization cycle, I am proud of what the Congress has been able to accomplish in crafting this new program.

Back in 1982, when the Clean Water Act was first established, the Congress determined to get tough with the so-called point sources of pollution including industrial discharges and municipal sewage systems. The Clean Water Act requires each of the thousands of point sources to obtain a permit for its discharge to surface waters. And those permits now include tight limitations on the effluent discharged based on the application of best available technology to each facility. The point source side of the Clean Water Act has been extraordinarily successful in reducing pollution and improving the quality of the Nation's waters.

But our experience on the nonpoint side has been radically different. Mr. President, the nonpoint sources of pollution include runoff from farms and cities, construction sites and timber cutting operations. Although many States have taken small steps to tackle the nonpoint pollution problem under grants provided by the Clean Water Act, nonpoint pollution continues to be a major environmental problem in the United States; 35 States report significant water quality problems as a result of nonpoint sources of pollution. It is estimated that one-half of the pollutants now reaching surface waters in the United States come from nonpoint sources. And it is clear that in many watersheds the goals of the Clean Water Act—fishable, swimmable waters—will never be met unless we can significantly reduce farm and urban runoff and other nonpoint problems.

Mr. President, it is in the area of nonpoint pollution control that the administration substitute to be offered by Senator DOLE later this afternoon differs considerably from H.R. 1 and the bill which was passed by the Congress last year. The administration bill takes the heart out of this new effort to control nonpoint sources. When the substitute was first presented here on the floor last week, it was said by some that H.R. 1 was a Federal land use planning bill. That it would authorize the EPA to go in and tell States how land and water resources could be used. Well, Mr. President, nothing could be further from the truth.

In fact, the bill H.R. 1 does just exactly the reverse. The bill authorizes States to develop plans to control nonpoint sources of pollution and then it requires the Federal Government to abide by those State plans. We must emphasize that point, Mr. President. Not only does this bill not authorize EPA to tell a State what to do, this bill says that every Federal agency—EPA and all the rest—every Federal agency which conducts a program of assistance or development which might adversely affect the water quality of a State through nonpoint pollution, must modify its program or projects so that they are consistent with the State's plan to protect its waters. The language to require Federal consistency with State plans that we have included in this bill could not be stronger. It is a clear indication of how we want this new effort conducted.

I do not know who is claiming that this bill interferes with the traditional authority of State and local government for land use planning. It is certainly not the States, counties or cities of this Nation. Organizations representing virtually every elected State and local official in this country are supporting this bill. To my knowledge no one at that level of Government is complaining about the nonpoint section of this bill. They are eager to have it, because one of the many important things that H.R. 1 provides is the requirement that the Federal Government respect the land use and water resources protection plans which are developed by our partners in this Federal system of government.

So, Mr. President, with that issue hopefully laid to rest, I would once again commend this bill to my colleagues in the Senate and congratulate the managers of the bill and our distinguished former chairman from Vermont on the fine effort and great achievement that this bill reflects. It is but one of many major pieces of environmental law that Senator STAFFORD has brought to the floor of the Senate over the past few months and for him and all the other Members who have worked so hard in this endeavor, I encourage the Senate to give the bill, H.R. 1, the same unanimous endorsement which was recorded here in this Chamber in October of last year.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 8 minutes.

Mr. CHAFEE. Mr. President, I should like to discuss the administration's proposal that is before us today. The administration's proposal does not live up to the 1981 commitment made by the administralon, which calls for funding this Clean Water Program at $2.4 billion annually through fiscal 1991. The administration's program falls about $2 billion short of the promise made some 8 years ago, when we marked up the clean water bill in 1981.

The bill we are considering today—that is, the underlying bill, now H.R. 1—does live up to that commitment. It responsibly phases out the Construction Grants Program through a revolving loan fund. Our bill creates a loan mechanism that puts our National Clean Water Program on sound footing well into the next century.

The administration's bill does not separately authorize funds for a revolving loan program, and that is a very important part of all this. The loans would be limited to 55 percent of a project's cost. This might appear reasonable. It would appear to spread the funds to more cities. But what it would likely do would be to slow down construction of waste treatment facilities, since cities will not only have to pay 45 percent of costs, but also will have to come up with the money to pay back loans as well.

The administration's bill also limits the kind of financial activities for which loans can be used. Although both bills would allow straight loans, or loans to buy or refinance the city's debt obligation, the administration's proposal, unlike our bill, does not include other activities, including making loan guarantees or providing credit enhancement for localities.

Given the features of the administration's loan proposal, it is clear that States and cities will decide to continue with the Grants Program. Loan will rarely be used as a mechanism to fund wastewater treatment facilities. In other words, they will not use the loans; they will stick with the grants. So, when the Construction Grants Program comes to an end, there is nothing left in its place; whereas, under our legislation, they move gradually from a construction grants program to a revolving loan proposal.

The administration's bill does not provide for an orderly phase in of the Loan Program. It does not lay out a road map which will help the cities and States in meeting their clean water needs.

There is another component of the administration's bill I would like to touch on briefly, and that is that it does not deal with the problem of what we call nonpoint pollution. Nonpoint pollution is pollution that does not come out of a specific pipe. It is pollution that comes from runoff—from farmlands, for example, or from parking lots in cities. Our bill addressses that problem. It creates a new program which requires the States to develop and implement programs to control this nonpoint pollution. Four hundred million dollars in 60-percent matching grants is authorized over 4 years to get the States started.

States may also use 1 percent or $100,000—which ever is greater—of their construction grants funds for nonpoint program implementation.

The administration bill eliminates all this $400 million and makes the program optional. What it says to the States is if you want you can go into nonpoint source pollution control but you have to use your grants money. We all know the States are desperate for their grants money and they are just not going to take any of that grants money used for construction of waste treatment facilities and use it for nonpoint source pollution control.

In conclusion, let me just say something about this piece of legislation. We have been on it a long time. Listen to this history. The Committee on Environment and Public Works has been working on provisions of this bill since 1982. We passed the other legislation in 1981 and we immediately the next year went to consideration of improvements to that bill.

We held 20 days of hearings with dozens of witnesses. We had 8 days of what we call markup, that is, considering the bill in committee and deciding how to write the bill. We reported bills twice from the committee. We passed a bill unanimously in the Senate right on this floor after 3 days of debate. Unanimously it passed. Imagine that 3 days we talked it over, got everything accommodated, and it passed unanimously.

Then, in effect, we had a 15-month conference a 1¼-year conference, with the House of Representatives.

Then last October after that conference we merged the bills with the House and the Senate versions, mostly the Senate versions, brought it back here to the Senate and again it passed unanimously.

The Senate conferees were successful in keeping with the lower Senate figures in the conference. We came in with an $18 billion bill and that is what we came out with. The House came in with a $21 billion bill. The House had a whole series of add-ons and we managed to reduce that by some $3.2 billion. So the total savings from the House version was $6.2 billion.

Now, we have debated this bill extensively. We have heard from the administration, from the cities, from the States, from the environmental community, from financial experts, from affected industries and businesses. Everyone had their chance to state their case during this legislative process. Obviously everybody did not get what they wanted. But they had an opportunity to give us their input and that included the administration.

We crafted here a strong environmental bill which passed both bodies unanimously. There is nothing left for us to do, it seems to me, but to reject this administration substitute, move on and unanimously approve the version that we have worked on, S. 1, and now it is called H.R. 1, the bill before us, pass the Water Quality Act of 1987, urge the President to sign it. I hope he will. I would be delighted if he calls it his bill. We have no prior claim on it particularly. I cannot speak for Senator MITCHELL. But if we want to call it the Reagan legislation, fine, if he signs it, and we will have a wonderful ceremony down there. Everybody will get a pen. We have made a major step in cleaning up the waters of the United States.

Absent that, we can go back and forth and have this President, if he chooses, veto it and then come back and we will do all we can to override that veto because we do not think it is right. So let us get on with this and I hope the President will listen to the message that we are with all politeness and respect and sincerity sending to him today.

Thank you very much, Mr. President.

Also at this time I would like to thank the distinguished Senator from Maine for all his help on this piece of legislation. He and I worked closely together and we have a good bill. I think he deserves a lot of credit for what he has done and also, of course, the distinguished chairman of the committee and the distinguished ranking minority member, Senator STAFFORD. The chairman, of course, is Senator BURDICK.

Thank you.

The PRESIDING OFFICER (Mr. ADAMS). The Senator from Maine.

Mr. MITCHELL. Mr. President, occasionally I hear people say protection of the environment is a partisan issue. As a Democrat I am distressed that Democrats sometimes say that. That is not true.

The Republican Party has a long, proud and powerful tradition of protection of our environment and preservation for our resources and no two persons better reflect that tradition than the Senator who just spoken, Senator CHAFEE, who is the person singly most responsible for this legislation, and the person about to speak, Senator STAFFORD, who was the chairman of the Committee on the Environment and Public Works that presided over this legislation, its passage last year, and other monumental environmental legislation.

The Nation owes to them a debt of gratitude for their great work on this and other important environmental legislation. No one in this country has done more to protect the American environment than Senators CHAFEE and STAFFORD.

Now, Mr. President, I yield 6 minutes to Senator STAFFORD.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. STAFFORD. Mr. President, I thank the very able Senator from Maine for his very kind words.

Nothing that Senator CHAFEE and I have done could have been done without the very able Senator from Maine who was always there when we needed him and very active and very effective in environmental legislation.

Mr. President, I regret that I must oppose the amendment offered by my good friend and colleague, the distinguished minority leader. I have the highest regard for the senior Senator from Kansas, and I know that he is offering this amendment with good intentions. Further, I respect his desire, in his position as minority leader, to support the administration position on this matter.

However, speaking as a Senator who has been directly involved with the Clean Water Program for many years, and who has worked on this cycle of reauthorization for 4 years, I must say that I believe the amendment is misguided. Where my distinguished colleague argues that we cannot afford to support sewage treatment construction at the levels specified in H.R. 1, this Senator must respond that we cannot afford to spend any less.

Mr. President, in 1972 this country completely rewrote its water pollution control law. We put towns and cities on a schedule to install secondary treatment pollution control technology and to meet water quality schedules. To support this effort, Congress also instituted a major program of construction grants to assist cities and towns in meeting these requirements. This program was based on the proposition that water pollution is not just a local problem, it is a national problem. As several Members stated in this Chamber 14 years ago, water pollution knows no political boundaries. That statement is just as true now as it was then, and water pollution is still a national problem and is recognized as such by the American people.

Over the years, the Federal Government has invested over $40 billion in support of over $60 billion of total construction. Tremendous gains in water quality have resulted. This Senator sees the improvement everywhere he goes in this great country. But allow me to state to my colleagues a startling figure: There are still in this country about 3,000 towns and cities that are not in compliance with the basic pollution control requirements of the Clean Water Act. Nearly 400 of them are classified as "major dischargers" that are dumping human wastes with little or no treatment. Needless to say, we cannot achieve the Nation's clean water goals until compliance with water pollution requirements is achieved.

And according to the Environmental Protection Agency, an additional $100 billion is needed to achieve compliance with these requirements.

Mr. President, water pollution exacts a high economic cost on the American people. An expenditure for preventing pollution is paid back in reduced cost of cleansing drinking water, in recreational opportunities, and in countless other ways. Water pollution grants are not spent, they are invested.

In the face of budgetary constraints, everyone has agreed that the Federal Government must end its support of these projects. This decision was not an easy one to reach because there was a great deal of pressure to continue Federal funding more or less indefinitely. Still, we were able to gain political consensus for phasing out construction grants and moving to State revolving loan funds.

The major question presented by the proposed amendment is whether we spend an additional $12 billion, as proposed in S. 76, or $18 billion as proposed in H.R. 1. Mr. President, the Congress has devoted a great deal of time to evaluating this question. The House of Representatives initially concluded that a $21 billion phase out program was needed. The Senate decided on $18 billion and eventually persuaded the House to go along with that figure.

Today's vote represents the third time this body must vote on this $18 billion figure. Twice before the vote has been unanimous. I would say to my colleagues that it is still the right figure. The Committee on Environment and Public Works looked closely at this question, and eventually decided that this is the minimum amount of money needed to fulfill our long-term commitment and avoid chaos during the transition phase to a new funding mechanism. Nothing less will do. We must not at this late date back track on our commitment. To do so would endanger the environmental gains we have made and disrupt ongoing programs and projects. It could, indeed, shortchange one of the most successful cleanup programs this Nation has experienced.

Mr. President, let me turn to the nonpoint source management provisions in H.R. 1. They are among its most important provisions. They are intended to deal with one of the most intractable kinds of pollution—general runoff pollution.

The Clean Water Act deals pretty well with pollution from point sources—pipes and ditches—but it never has been very effective against nonpoint sources. H.R. 1 would make a good start toward remedying that problem. It calls upon States to develop nonpoint source management plans, and it authorizes funds to support their efforts. Both elements of the bill are essential. I am afraid the program will fail if either is weakened or deleted. The administration bill would do away with both elements.

Mr. President, we have learned over the past few years that runoff pollution accounts for about half of the water pollution problems in this country. It is the major problem in some areas. H.R. 1 sets out a cautious and prudent program. It gives States flexibility in designing their programs, and it provides for EPA oversight of the plans to assure their adequacy.

Mr. President, let me cite some figures that should help my colleagues understand what is at stake here.

It has been estimated that nonpoint source pollution accounts for as much as 73 percent of oxygen-demanding loadings, 84 percent of nutrients, 98 percent of bacteria loads, and 99 percent of suspended solids in the Nation's waters.

The cost of this pollution in terms of water treatment, lost recreational opportunities, and loss of fisheries is simply enormous.

It is essential that the States' efforts be supported with Federal funds. H.R. 1 authorizes the minimum level of funding that we need to help the States develop good programs. It is not an open-ended authorization. It lasts for only 4 years.

As I stated last week, I very much regret that the President is putting this body through this debate. I believe the amendment before us will be defeated, and I believe that if the President again vetoes the Clean Water Act, his veto will be overridden. This Senator urged last fall that the President not pocket-veto the bill. Many other Senators did the same, from both sides of the aisle. We were joined in this plea by individuals and organizations from all across the political spectrum and from all sides of the water pollution issue. This Senator stated then that a pocket-veto would only lead to a political confrontation early in the 100th Congress, a confrontation that the President would not win.

Unfortunately, the President got what this Senator believes was very bad advice from his most senior advisers, with the result that today this body must again pass a clean water bill, and pass it over a veto if it comes to that.

This Senator would have preferred to have avoided this necessity, but now that it has been thrust upon us, this body must deal with it in the right way. I urge my colleagues to join with me in putting the Clean Water Act back on track. Cast a vote for the environment. Vote "No" on this amendment, and then vote "Yes" on the underlying bill.

Mr. President, I yield the floor.

Mr. INOUYE. I am very pleased that the Clean Water Act amendments recommended by the conferees contains section 506, which was included in the House bill and concerns the treatment of Indian tribes. All too often in the past, Congress has enacted broad national legislation without specifying the role to be played by Indian tribes vis-a-vis the Federal and State governments. That has led to a lot of uncertainty, confusion, and litigation and has hindered the execution of important national policies on the Nation's Indian reservations. One of my goals as chairman of the Select Committee on Indian Affairs will be to try to correct the problem where it still exists. That is why I strongly endorse the provision of section 506 of the bill now being considered.

The language of section 506 is somewhat technical in places. In particular, I am concerned about section 518(e)(2). As I read that provision, it enables qualified Indian tribes to exercise the same water quality regulatory jurisdiction with respect to water that traverses, borders, or is otherwise located within their reservations that States have for regulation of water outside Indian reservations. Is my understanding of section 518(e) correct?

Mr. BURDICK. Yes. The intent of the conferees was to assure that Indian tribes would be able to exercise the same regulatory jurisdiction over water quality matters with regard to waters within Indian jurisdiction that States have been exercising over their water. The conferees believe that tribes should have the primary authority to set water quality standards to assure fishable and swimable water and to satisfy all beneficial uses. The act also provides a mechanism for resolving any conflict between tribal standards and upstream uses or activities.

Mr. LAUTENBERG. Mr. President, I rise in stong support of H.R. 1, the Clean Water Act Amendments of 1987. This same legislation was unanimously adopted by both the House and Senate at the close of the last Congress. We knew then and we know now that this bill is a significant step forward in protecting this Nation's waterways.

With its construction grants components, its nonpoint pollution program, its tightening of toxic discharge controls, and its storm water permitting program, this legislation will do much to address major environmental challenges.

Unfortunately President Reagan pocket vetoed this legislation. The administration asserted that the bill's authorization for construction grants was excessive. But this claim does not take account of the high costs of sewage treatment construction. It has been estimated that $109 billion is needed to finance such construction throughout the Nation, including $4.5 billion in my State of New Jersey.

Compared to these large needs, the bill before us is no budget buster. It is a rational downpayment on a major national problem. This legislation spreads $18 billion over 9 years for its Construction Grants Program. This sum is gradually allocated. And almost half of—$8.4 billion—is targeted for State revolving loan funds. Such State loan funds will help create a self-sustaining source of money for States to finance local construction.

A strong construction grants program is essential for economic development across this Nation. If we do not have the sewage treatment facilities to handle the wastes resulting from economic development, we cannot move aggressively forward with such development.

Mr. President, the costs of not enacting this legislation—the harm to our environment, the burdens on our States and localities, and the damage to economic development—far exceed those of this measure.

Some are arguing today that the administration's substitute bill should be adopted instead of H.R. 1. But the administration bill is no substitute for a strong clean water bill.

The administration's bill would steal from this Nation the opportunity to make real progress in cleaning up our waterways. The substitute reduces by $6 billion the funding for communities' sewage treatment, including more than a $220 million reduction in funds for my State. It also abolishes the mandate for establishing revolving loans, the component designed to allow our States independently to fund projects. And it limits States discretion in using funds for revolving loans.

The substitute eliminates the authorization and strength of the Nonpoint Pollution Control Program. The substitute specifically removes the $400 million authorization of H.R. 1, and makes many of its important requirements, such as State nonpoint pollution assessments, simply optional.

Mr. President, the administration bill is a classic example of being penny wise and pound foolish. It is a haphazard and simplistic approach to a complex problem. It ignores the hard work and careful consideration this Congress has given to H.R. 1. And I urge my colleagues to oppose it.

The time for debate is over. We have the bill to do the job. Let's pass H.R. 1 today, and get on with the task of protecting and cleaning up this Nation's waterways.

Mr. BINGAMAN. Mr. President, today I rise to speak about a matter of critical importance to the proper management of one of this Nation's most precious resources. Due to the arid climate in my own State, the value of water is temendous. Precipitation is not plentiful and water is not natually renewed as fast as it is used. Therefore, water treatment facilities carry a great burden in providing quality water for the citizens of New Mexico. It is for this reason that I urge swift passage of S. 1, a bill to fund the initiation and continuation of much needed water treatement projects across this country. In addition to such projects, water pollution problems requiring immediate attention continue to rise at alarming rates and cry out for immediate attention.

This bill will renew funding for existing water pollution control programs, and begin efforts to control certain pollution problems that the current law has not given proper attention to.

The measure also gradually phases out the Federal Construction Grants Program. To ease the transition to State and local responsibility, the bill provides grants for the establishment of State revolving loan funds. The State revolving funds would be used to make low-interest loans to communities in need of sewage treatment systems. Loan repayments would later be used to make new loans, thus providing a self-sustaining source of money for States to finance local construction after the Federal Construction Grants Program ends.

A Federal grants program to help cities construct sewage treatment systems is badly in need of reauthorization. In addition, this bill creates a new State-Federal program to control polluted runoff from farmland and city streets, tightens controls on toxic pollutants, and authorizes funding for various other activities to clean up the Nation's rivers, lakes and streams. Together, the State revolving fund programs and the construction grants would receive $18 billion over fiscal years 1986 through 1994.

While this is an enormous figure, I believe that this is a reasonable and responsible figure for several reasons.

Without this reauthorization, communities in New Mexico would lose as much as $11.9 million. Albuquerque, for example, would lose $5.2 million for continuation of waste water instruction and, as a result, it would put a halt to the $7 million total project.

While $18 billion may be interpreted by some to be exorbitant, it is, in fact, small compared to the total cost of needed projects, now estimated by the Environmental Protection Agency to be over $75 billion. The fact is that the longer we wait to fund these needed projects, the higher the cost will be. So it is cost efficient to act now.

In addition, this authorization is consistent with the commitment, made by the administration as part of the 1981 amendments to the Clean Water Act, to support funding at the $2.4 billion level through fiscal year 1991. In return for this long-term funding commitment, Congress agreed to lower annual authorizations—authorizations in fiscal year 1979 and 1980 were $5 billion—a lower Federal share of project costs—55 percent rather than 75 percent—and a reduction in the types of projects eligible for Federal assistance. As a result, this legislation is the fulfillment of the commitment already made by the Federal Government, and without it we are leaving many local jurisdictions in my State and elsewhere high and dry.

Furthermore, of the $18 billion amount, $8.4 billion will be used to establish State revolving loan funds. These State funds will be paid back by communities and will provide a long-term investment in water quality facilities.

This bill is a very responsible approach to a critical problem. It represents a substantial compromise between the costs of the many necessary water quality projects and the need to control Federal spending. Most importantly, I feel that this legislation addresses the need to properly manage and improve a resource that is certainly a vital element in all biological processes; in our water sources lies the very basis for life itself. In light of storm and farm runoff, industrial and sewage pollution, acid rain and other water contaminants, I believe that this bill will have a beneficial effect on this planet's future capacity to sustain animal and plant life.

Again, I urge strong support for the Clean Water Act of 1987. It is a wise and necessary investment in our future.

Mr. BRADLEY. Mr. President, 4 months ago, the Senate considered legislation to reauthorize the Clean Water Act. This reauthorization was literally years in development. It represented a true compromise, with substantial cost-sharing provisions, and a revolving loan program as well as Federal grants. The legislation broadened Federal responsibilities: Nonpoint pollution and urban runoff, storm water control, the cleanup of toxic "hot spots" for especially degraded water quality, etc. At the same time, the legislation retained a solid financial commitment in the part of the Federal Government to assist regions and localities with the less glamorous but completely essential matter of municipal sewage treatment.

The strength of this legislation was mirrored in the strength of its political support. This legislation passed the Senate—unsurprisingly—by a vote of 96 to 0. Likewise, the House voted unanimously in favor.

As we all know well, the President saw matters differently. Two days after the November elections, the Clean Water Act Reauthorization was pocket vetoed.

This action was ill advised. It was a mistake. Fortunately, we now have an opportunity to correct this mistake, and we should do so.

Mr. WALLOP. Mr. President, The debate today is not a debate on the environment. There is complete agreement by everyone concerned about this matter that clean water is a vital national priority. We have traveled a long way from the theories which were prevalent just two decades ago that water and air were two unique goods, or resources, which were free. There was no cost to their use.

The textbooks of the early 1960's were wrong. Water was not a free good, in either an economic or environmental sense. So, over the past 20 years, we have had a national goal of cleaning up our waterways and putting in place treatment systems which will keep our waters clean. But, just as water was never a free good, it is also true that the cleanup of our waterways is not a free act. There is a cost. We are facing up to the issue. We must protect our water. The only issue at this point is what can we afford and how are we to fund the program.

Late last year, we passed the clean water bill, at a price tag of $18 billion for the next 9 years. We did with the understanding that the Congress was on track toward meeting the budget deficit target. According to the Gramm-Rudman-Hollings Act, our deficit target for fiscal year 1987 is $122 to $134 billion. We supposedly just made that deficit target. At that time, voting in favor of the Clean Water amendments was the only available alternative, and it appeared to be the right one.

For the past 2 weeks, Members such as my colleague from Colorado, Mr. ARMSTRONG, have doused us with the bracing reality of the true budget situation. We did not reach our deficit reduction target last year. The deficit is not $134 billion, but actually, $174 billion for fiscal year 1987. We are already $40 billion over the mark, and we have not acted on the supplementals, nor have we acted on new spending, such as that authorized by S. 1. Today, we do have an alternative. The substitute offered by my colleague from Kansas, Mr. DOLE, is a sensible and responsible answer to the issue of cleaning our waterways.

For the first several years of the reauthorization period, there is virtually no difference between the two bills. The Federal grants will continue. It is in the outyears where the funding differences between the two bills arise. The Dole substitute would save $6 billion in the outyears. There is an honest difference between the supporters of each version over how the loan fund to be used in the outyears should be constructed. However, the real issue is whether or not we are serious about dealing with the deficit. If we act responsibly over the next few years, future Congresses will have the ability and flexibility to establish the loan fund. A vote for the Dole substitute is a vote both for the environment and for fiscal responsibility. I would urge my colleagues to vote in favor of S. 76.

Mr. BREAUX. Mr. President, H.R. 1 represents an important step forward in cleaning up and protecting the quality of our Nation's water. I was a cosponsor of the comparable legislation approved by the 99th Congress, which was subsequently vetoed by the President, and I am pleased to voice my support for passage of H.R. 1.

This legislation addresses a number of vital issues and will significantly enhance the effectiveness of our efforts to clean up our water resources. H.R. 1 contains important new provisions to ensure the identification and control of toxic pollutants. This will prove to be an important advance in addressing toxic hot spots. The bill includes a new program for the control of nonpoint sources of pollution that remain a significant source of water quality problems. Nonpoint pollution is thought to account for up to 50 percent of U.S. water pollution, and this new program will authorize $400 million over the next 4 years to assist the States in developing comprehensive programs to address both urban and rural runoff problems.

H.R. 1 will also continue funding authority for the sewage treatment grant program at a $2.4 billion annual level through fiscal year 1991, and authorizes funding to capitalize a revolving fund to assist State and local governments with project financing in the future. This is a responsible means of fulfilling a commitment previously made by the administration, a commitment which the President now maintains is a budget buster.

Among the many fine programs contained in this legislation is an initiative to address in a comprehensive and coordinated fashion our estuarine conservation and management needs. As my colleagues may be aware, my home State of Louisiana contains over 40 percent of the coastal wetlands in the United States. Among the most biologically productive systems on Earth, coastal wetlands provide important benefits in pollution and flood control, and are of extraordinary value for migratory birds and as nursery areas for fish and shellfish resources. In 1983, for example, Louisiana ranked first in the Nation in fishery resource landings by weight. In short, it would be difficult to overstate the significance of coastal wetlands to Louisiana, or of Louisiana's coastal wetlands to the Nation.

We in Louisiana are facing one of the most complex resource management problems in the country in attempting to protect and conserve our coastal wetlands. Currently, the coastal wetlands of Louisiana are eroding at a rate of 50 square miles each year. The Mississippi River, which drains over 40 percent of the continental United States, also transports pollutants from over 40 percent of the continental United States into Louisiana's coastal waters. Our coastal wetlands are under siege from many directions, and only coordinated and comprehensive programs offer the promise of making significant progress in developing and implementing solutions.

Section 320 of H.R. 1 establishes a National Estuary Program under which estuarine areas may be designated as an estuary of national significance. Section 320(a)(2)(B) lists a number of specific estuarine areas to be given particular attention. A careful reading of section 320 indicates, however, that any State may nominate an estuary lying wholly or in part within that State as an estuary of national significance. Based upon the objective criteria of this section, it is apparent that much of coastal Louisiana, particularly the estuarine complex of the Barataria Bay region, should meet the requirements for designation as estuaries of national significance. The need is great and the problems are severe. Through this legislation the Congress is committing itself to addressing critical estuarine problems which are of tremendous significance to our State. Section 320 is intended to focus needed resources based upon the serious nature of the problems, and I intend to make every effort to see that this program is implemented in a fashion that will allocate these resources accordingly.

Once again, Mr. President, let me reiterate my strong support for H.R. 1. This legislation is badly needed and will make substantial improvements in the quality of our Nation's waters. I strongly encourage the support of my colleagues for this measure, and call upon the President to sign this vital legislation promptly.

Mr. CHILES. Mr. President, as an original cosponsor of S. 1, the Water Quality Act of 1987, I urge the immediate adoption of this critical piece of legislation. S. 1 and H.R. 1 provides essential funding for sewage treatment plant construction, increased authorities to control nonpoint source and toxic water pollution and strengthened regulatory provisions. Funding for sewage treatment construction would total $18 billion from 1986 through 1994; $3.6 billion less than current law levels. We have carefully reviewed the bill and determined that no budget act points of order lie against the legislation, and it is consistent with budget resolution assumptions.

There has been much discussion of the budgetary aspects of the bill and I am well aware of the administration's objections to the funding levels. I would like to point out, however, that the authorizations contained in the bill are subject to annual appropriations and are therefore controllable by the Congress. Should further reductions in this program become necessary to meet deficit targets, these reductions can be made in subsequent budget resolutions. Finally, the Congressional Budget Office has indicated that the administration bill provides only minimal savings relative to S. 1 in 1988 and therefore will contribute little to the achievement of the $108 billion Gramm-Rudman target.

Mr. PRYOR. Mr. President, the passage of the Clean Water Act reauthorization is very possibly the most important and significant thing the 100th Congress will accomplish. I hope that we will also address several other major issues of concern to our Nation, both foreign and domestic, but, let me assure my colleagues that I know of nothing that we can do for America's environment that will have farther reaching beneficial effects than passing the legislation before us now. I urge its immediate passage, and I want to thank the distinguished chairman of the Committee on Environment and

Public Works for his leadership in bringing this legislation to the floor of the Senate so quickly in this new session.

Everyone is for clean water, and President Reagan's veto of this bill last fall should not be interpreted by anyone to suggest that he favors anything less. Our disagreement was over the level of funding provided, and our quick action in bringing this reauthorization back to him in unchanged form should be a clear signal to both the President and to our cities that this Congress is ready to proceed with the task of cleaning up our Nation's waters. I sincerely urge the President to sign this legislation into law.

The reauthorization of the Clean Water Act, with its provisions for grants to States for the construction of wastewater facilities, means that our cities can get on with the job of cleaning up their discharges into our Nation's waters. One of the most troublesome aspects of the President's veto last fall was the uncertainty that our city officials all across the Nation were facing. On the one hand our Federal regulatory agencies were telling our mayors and city councils that they had until 1988 to come into compliance with the existing clean water standards, and on the other hand the Federal Government seemed on the verge of withdrawing the financial support needed to meet its own demands.

In Arkansas the cities that are in trouble trying to meet the deadline and the discharge limits come quickly to mind: Warren, Magnolia, Blytheville, Fayetteville. There are many others, Mr. President, too many to mention here. In every case a diligent and conscientious group of city officials are doing everything within their power to move their communities in the right direction. It has not been an easy or pleasant job, and, expect for the support this legislation provides, it will not get a lot easier in the future. We all owe them a debt of gratitude for being on the front line as our Nation continues to clean up its waters.

Mr. ROCKEFELLER. Mr. President, I rise to express my very strong support for the Water Quality Act of 1987, H.R. 1. I am very pleased to be a cosponsor. Not only is passage of this bill critical to States such as West Virginia which rely on the Federal-State partnership established by the existing clean water law, but it is also an important symbolic first bill to be passed by the 100th Congress.

Mr. President, West Virginia, like many States in Appalachia, strives to overcome tremendous obstacles to achieve economic development. West Virginia is a mountainous State, making development of large population centers unlikely and an expansive transportation system difficult.

Nonetheless, against the odds, West Virginia has for years been a part of the heart of America's industrial base. Indeed, as America has faced increasing and substantial pressure in trade and in a need to modernize, many West Virginia industries have been among the casualties.

Having been Governor of West Virginia for 8 years, I can tell you that economic development opportunities and redevelopment activities are critically tied to a locality's ability to offer basic services such as sewage treatment. The job in West Virginia is not complete, and the administration's proposed bill, S. 76, would make it that much more likely that the Federal Government would walk away from this partnership with many projects incomplete.

Mr. President, this is a long and complicated bill. I would simply note two aspects of S. 1 that would be of benefit to West Virginia. First, there is the difference in the funds made available for wastewater treatment facilities. Under the administration's bill, West Virginia would lose over $12.5 million in funding in the next 2 fiscal years, and some $25 million in the next 5. This is an untenable solution for a State that is financially strapped.

Second, I would note the inclusion of the so-called remining provisions in S. 1. This provision will maintain the integrity of the Clean Water Act for such operations, while also allowing some new flexibility for the coal industry to rework previously mined areas. I think this is an intelligent provision and one which will be used responsibly by both coal operators and State officials alike.

Finally, Mr. President, I have been surprised that we have had to revisit this issue this year. Having passed the Clean Water Act amendments by a unanimous margin last year in both Houses of Congress, the President's pocket veto of the bill demonstrates a skewed set of priorities. I am hopeful that the strong margin in the other body, and a sizeable margin in the Senate today will send a message that S. 1 is, and should be, the law of the land. And if necessary, we should be prepared to overturn a Presidential veto, if one should occur.

I thank the Chair.

Mr. HECHT. Mr. President, during the last Congress I worked with members of the Committee on Environment and Public Works concerning language in this legislation that affects Indian tribes.

I would like to thank the new chairman of the committee for his very helpful statement on this subject which he made on the floor of the

Senate last week, in a discussion with Senators ADAMS and BAUCUS.

In Nevada we have a situation on the Truckee River where the cities of Reno and Sparks have invested millions of dollars in water treatment facilities, which are currently being expanded and upgraded at considerable cost. The Pyramid Lake Indian Reservation is located downstream, and the tribe and the cities are involved in difficult legal battles over water quality.

I am convinced by the chairman's very helpful statement that Nevada's water rights and standards are not put into any jeopardy by this legislation. In addition, tribal standards would be subject to judicial review.

I would once again like to thank the committee for its attention to this matter.

GREAT LAKES MANAGEMENT

Mr. KASTEN. Mr. President, this bill contains a critical provision to improve the Federal management of the Great Lakes. It provides $11 million per year from fiscal 1987 through fiscal 1991 to be subdivided as follows: $4.4 million for demonstration cleanups of toxic-contaminated sediments; $3.3 million for a NOAA research program; and $770,000 for nutrient monitoring. I just want to clarify that these funds are to be provided in addition to the existing appropriation for the Great Lakes National Program Office.

If we viewed the amendment any other way, our goals would be thwarted. The Great Lakes National Program Office currently has an operating budget of $5 million per year. That money is used to support vital projects such as studies of atmospheric deposition in the lakes, and toxic contamination in nearshore areas. These ongoing activities are required by the United States-Canada Water Quality Agreement. If this amendment were to be seen as displacing the existing GLNPO appropriation, we would actually be reducing funding for these activities to $2.5 million per year. I just want to make clear that the committee does not intend such an illogical result.

The point of this amendment is to reverse a decade of neglect of the lakes, not to add chaos to EPA's existing programs. A recent National Academy of Sciences' report found that the population of the Great Lakes is exposed to appreciable more toxic substances than those in other parts of the United States. This amendment will provide the EPA with resources to help reverse that trend.

The bill also contains a provision establishing a procudure for the Environmental Protection Agency to address the problem of toxic hot spots. These toxic hot spots occur in areas where water quality fails to meet applicable standards, notwithstanding the discharges being in compliance with applicable permits. EPA will require pollution controls beyond those associated with installation of best available technology, to reduce and eliminate these toxic hot spots.

Other important provisions of the bill, and of particular importance to me, relate to the monitoring and control of pollution in the Great Lakes. These provisions would designate EPA's Great Lakes Program Office as the lead agency responsible for United States compliance with the United States-Canada Water Quality Agreement. It would require EPA to establish a toxic monitoring and surveillance network for the Great Lakes and develop a multiagency program for cleanup.

To implement these Great Lakes provisions, the bill contains an authorization of $11 million per year for fiscal years 1987 through 1991 to be divided as follows: $4.4 million for demonstration cleanups of toxic-contaminated sediments; $3.3 million for a National Oceanic and Atmospheric Administration research program; and, $770,000 for nutrient-monitoring. These amounts are in addition to existing appropriations for the Great Lakes National Program Office and are not meant to displace current resources.

Mr. KERRY. Mr. President, I rise today in strong support of H.R. 1, the reauthorization of the Clean Water Act. Today, an overwhelming majority of my colleagues, on both sides of the aisle, will send this bill again to the President for his signature. His veto of this bill was unacceptable last November and is unacceptable today.

Over 70 members of the Senate cosponsored S. 1, the companion to H.R. 1, when it was introduced at the beginning of the 100th Congress 2 weeks ago, and both Houses made this reauthorization their first priority in the new Congress. This should serve as a strong reminder to the administration that a consensus exists on protecting the water quality of this Nation. The President's veto was a shortsighted and misguided step that has left one of this country's most valuable resources extremely vulnerable. A second veto would only serve to delay what all of us know is the inevitable passage of the bill.

H.R. 1 is the result of a great deal of committee work by members of the authorizing committees in both Houses of Congress, who fashioned a bill that groups with many divergent interests have enthusiastically endorsed. The administration's too-little, too-late compromise indicates a fundamental lack of understanding of the level of congressional commitment to the protection of our water resources. H.R. 1 already represents a considerable compromise to many of us. It is fitting that the administration's bill, in the guise of the Republican leader's amendment, has been soundly defeated.

I am particularly pleased that H.R. 1 contains $100 million earmarked to assist with the cleanup of Boston Harbor. This greatly needed money will help begin what will be a monumental task for the Massachusetts Water Resources Authority [MWRA]. While this is a small amount when compared to the $2 billion that it will cost to complete the cleanup of Boston Harbor, this authorization will provide some early assistance to the MWRA and will serve as an affirmation of the importance of the task. In addition, the MWRA will receive a share of the nearly $400 million that Massachusetts will be allotted over the next several years through the new State formula. I join with the other members of the Massachusetts delegation who worked diligently and effectively on behalf of the harbor cleanup, in expressing our appreciation to both the Senate and House conferees for their consideration of this matter.

H.R. 1 must, and will, be enacted even if Congress is forced to vote on it a third time. We will not allow this administration to abdicate its responsibility to protect the environment. Congress should be commended for its perseverance in seeking a responsible clean water reauthorization. I believe that we are nearing the end of our efforts on this topic and I am pleased to be adding my voice to the chorus for what I hope will be the last time.

REDUCED FUNDING FOR MUNICIPAL WASTE WATER TREATMENT IS UNACCEPTABLE

Mr. KASTEN. Mr. President, I rise in strong opposition to the substitute amendment to reduce funding for municipal wastewater treatment facilities.

This substitute, the President's proposal, would reduce funding for municipal wastewater treatment from $18 billion to $12 billion. Cutting this critical program by a third is simply not acceptable.

Reductions in funding of municipal sewer treatment facilities will result in significant delays in completing critically needed sewage treatment facilities. At a time when municipalities are being hard hit by reductions in Federal programs such as revenue sharing we cannot reduce funding here.

Municipalities are ill equipped to meet the capital cost of building treatment facilities. Simply put, if we do not adequately fund this provision, many sewage treatment facilities will not be built.

In my home State of Wisconsin, cuts in this fund would have a major impact on the city of Milwaukee. In addition, if the Federal assistance for Milwaukee's sewer treatment program were reduced, it would send shockwaves through the entire State. Wisconsin would then be forced to divert the bulk of the State assistance program from deserving communities around the State to Milwaukee.

Completing the construction of municipal sewage treatment facilities is essential to protecting America's waterways. Reduced funding will result in the continued discharge of untreated, or inadequately treated sewage into our waterways. Such discharge poses a serious threat to public health.

It is clear that we need to restrain Federal spending, but this is not the place. Americans overwhelmingly want, and the country needs, clean waterways. We should fully fund the municipal wastewater treatment program and reduce Federal spending elsewhere.

I hope my colleagues will join me in opposing this substitute.

Mr. BENTSEN. Mr. President, this legislation, identical to that which Congress passed last but was pocket-vetoed by the President, is an outstanding example of the ability to solve major and very complicated problems through bipartisan cooperation in pursuit of an important national goal.

The recognition of clean water as a high priority in our Nation was a moving force behind this bill. The effort to clean up our Nation's waters has the overwhelming support of the American public, who throughout the history of this country have recognized the responsibility to our neighbors, our children and ourselves to correct abuses to this critical aspect of the environment.

Hearings before the Environment and Public Works Committee clearly prove that the Clean water Act is paying off with a substantial reduction in pollutants. Our rivers are cleaner and our water quality has improved.

But this legislation also reflects the fact that there is still work to be done—and it includes major new efforts to continue on a steady and productive course.

It took many months to work out an acceptable agreement on construction grants. It would be regrettable and, in my mind, contrary to the will of Congress and the American people, for the administration to consider a challenge to this provision. My colleagues will recall that in 1981, the administration agreed to fund this grant program at a level of $2.4 billion per year for the 10 years needed to complete core needs for treatment works based on available needs survey data. Then, early in 1985, OMB proposed to phase out the program by 1990, and to fund no new starts.

This legislation continues to shift the program to State and local governments, but it also recognizes that the OMB proposal to pull the rug out from under a national goal at a critical point of progress was too abrupt and poorly planned. The $18 billion authorization will support the construction grant and loan program through 1994, and it is a fair timetable. Under the grant program, it authorizes $2.4 billion for fiscal year 1986, for fiscal year 1987, and fiscal year 1988, and $1.2 billion each for fiscal year 1989 and fiscal year 1990. Under the revolving fund, $1.2 billion is authorized each year for fiscal year 1989 and fiscal year 1990, $2.4 billion for fiscal year 1991, $1.8 billion for fiscal year 1992, $1.2 billion for fiscal year 1993, and $600 million for fiscal year 1994. States are required to establish revolving loan programs and provide a 20-percent match for Federal funds. Equally as important, the legislation sets up a more equitable allocation program, which more accurately reflects the needs of our growing States. During fiscal years 1987, 1988, 1989, and 1990, for example, my State of Texas will receive an increase of approximately $18 million annually over the current level. While this is still less than what the figure would be under an allocation based strictly on eligible needs, it is an acceptable step toward fairness. It is also a correction of an inadequacy in the current allocation formula that was known but unaccounted for in the 1981 legislation.

The construction grant program is an acknowledgment that we must work closely with the States to assure that the revolving fund mechanism is workable and to provide a period of transition to allow States with lengthy legislative cycles or difficult remaining needs to work out their problems. However, it will be the revolving loan program that will represent the real future of municipal wastewater treatment construction. Under this program States will be able to recycle these funds in perpetuity and can develop a planned approach for ongoing and changing construction needs. I am pleased by provisions to allow substantial transfer of construction grant funds to the revolving loan fund in the first years. Fifty percent of 1987 grant funds, 75 percent of 1988 grant funds and all of the 1989 and 1990 grant funds may be transferred into revolving loan funds. Additionally, the loan program is more flexible than the grant program; for example, reserve capacity—which is so essential to growing States such as Texas—can be funded under the loan program.

This legislation also includes a new permitting program to control industrial and municipal storm water discharges. EPA will promulgate storm water discharge regulations, and the initial cities to be regulated are those over 250,000 population, with cities over 100,000 to be regulated later. My understanding of the bill is that it would not categorize flood control ditches as municipal storm sewers and would not bring such ditches within the permitting process of section 405 of the Clean Water Act.

There is also a growing national concern over nonpoint pollution, and provisions are included to authorize the States $400 million to development and implement nonpoint source pollution management programs to manage such problems as polluted runoff from city streets and farmland. This type of pollution represents a major source of sediments, pesticides, nutrients, toxic heavy metals and bacteria, and almost every State has identified it as a significant contributor to existing water quality problems. At the same time, nonpoint pollution is a very different problem to solve than discharges from point sources. It is not easily subjected to a harsh regulatory solution. While there are some cities and States which have successfully implemented ordinances that manage nonpoint runoff from various operations like excavation, the issue is vastly different in most rural areas. Farmers and ranchers have long had a stewardship role in the land. Their lives depend on it. It is my view that no successful nonpoint program can be developed without the full involvement and support of these citizens. Land conservation is the original version of nonpoint protection. It is equally my view that a program which captures the minds and imagination of farmers and ranchers is one that will depend on their initial involvement in its creation. It will not be one developed in Washington and sent to the States for implementation. One of the key aspects of the nonpoint program included in this bill is its heavy reliance on nonregulatory approaches to nonpoint pollution problems. I am pleased to see a program which envisions a cooperative problem solving approach instead of the usual Federal control and compliance theory. Nonpoint pollution is a different problem; it warrants a new solution.

Another provision of particular interest to my State provides for partial delegation of the permit program. Texas has been unable to obtain approval for the Texas program because the State divides wastewater permits between the Texas Department of Water Resources and the Texas Railroad Commission. The Railroad Commission, which regulates oil and gas operations, has only in recent years sought permit delegation. Under this provision, the Texas Department of Water Resources, which has a fine permit program, will be in position to grain Federal approval for its portion of the program.

The bill also allows establishment of management conferences to solve pollution problems in many of the Nation's major estuaries. The levels of water quality in some of these estuaries are alarming, and demand prompt action. Point and nonpoint sources of pollution have actually closed some of our Nation's greatest natural resources to shellfishing and swimming, and others are declining. Under this provision, the EPA will convene management conferences for up to 5 years to identify pollution sources, conduct research and develop conservation and management plans.

The legislation lists several of these estuaries for priority consideration under the program, ranging from Long Island Sound and Narragansett Bay to Galveston Bay, in my State of Texas. Galveston Bay is the largest of the seven major estuarine systems in Texas, and studies in 1975 showed it was the spawning and nursery grounds for 80 percent of the total fishery products taken from the Texas gulf coast. If this percentage remains similar today, Galveston and adjacent bays were ultimately responsible for approximately 82 million pounds of commercial fishery products worth $142 million in the 1985 total commercial Texas catch. In all, the Galveston Bay system receives runoff from Texas cities and towns totaling more than 6.75 million population and receives discharges from some of the most critical and vibrant industrial operations in the Nation. There will always be conflicts among the competing needs of the users of Galveston Bay. It is my hope that these conferences will facilitate the planning necessary to assure that sound judgments are made with regard to the use of these important estuarine systems.

The bill addresses several other policy matters. Among these is modification of the use of "fundamentally different factors" in the effluent guideline and permitting programs. Generally, these changes follow the basic Senate approach. However, we have made several pragmatic adjustments that should make these changes work better. In particular, a sound approach has been defined to deal with industrial operations in which situations are not readily resolvable through the guideline development process. For example, in oil and gas production operations, wastewater conditions can differ from well to well. Generally, this water is reinjected under the UIC provisions of the Safe Drinking Water Act. However, there are situations in which it must be discharged and the guideline development process is not able to consider these situations before they occur. Consequently, the bill directs the EPA to approach these situations by first, temporarily suspending the guidelines with respect to such facilities, second issuing best professional judgment permits for such sources, and third, subsequently revising the guidelines to reflect these new situations. This will allow the necessary sensible case-by-case considerations to be made in these appropriate circumstances.

Another provision of the fundamentally different factors agreement relates to four fertilizer plants in Louisiana. The bill excludes from the effluent guidelines under 40 CFR, part 418, these four facilities under section 306(c)(1). Paragraph (2) of that subsection requires that EPA expeditiously, but not later than 180 days after enactment, issue permits for these four facilities based on best professional judgment under section 402(a)(1)(B) of the Act. If EPA decides after the date of enactment, to promulgate new effluent limitation guidelines for the facilities subject to the provisions of section 306(c) of this bill, the BPJ permits will remain in effect until issuance of new permits under the new effluent guidelines. Otherwise, permitting for these four facilities will continue under section 402(a)(1)(B).

The bill extends deadlines for compliance with the statutory requirement for the implementation of controls to achieve best available technology economically achievable. The bill would largely track the Senate approach including a final deadline date for compliance. However, it is clear that there are some guidelines, including the guidelines for the very complicated chemical industry, which will not be completed in time for all the facilities to comply with this deadline. There is administrative discretion available to address this type of situation; it is in use now. We fully anticipate that EPA will continue judicious and equitable use of its administrative discretion in those instances where failure to comply with the deadline is related to limitations in the development of the guidelines by EPA.

The bill also contains a provision closely modeled on the Senate provision, prohibiting backsliding or the weakening of effluent limitations in permits based on best professional judgment or water quality standards. While this provision is well explained in the statement of managers, there is one aspect on which additional comment may be helpful. The bill contains five exceptions to the general rule prohibiting the weakening of effluent limitations. There are two matters addressed in EPA's current regulations on this subject, however, that although not included in the statutory exceptions, may still have an effect on particular situations. In certain circumstances effluent limitations may be established on a net basis for particular dischargers. Such a permit should be examined as to whether any modification does indeed involve a weakening of an effluent limitation. Also, permits are occasionally based on production levels. Such permits can be examined in a similar manner.

Mr. President, we can all be justly proud of the advancements toward clean, safe water over the past 10 years. This legislation—which has broad support among all interested parties, the Congress and the people—recognizes there is still more to do. It is sound legislation, targeted with care toward the goal of cleaning up once and for all our Nation's waters. I urge my colleagues to pass it again, as we did at the end of the 99th Congress.

Mr. HATCH. Mr. President, section 506 of the clean water bill indicates that Indian tribes shall be treated as States for the purposes of section 101(g). Concerns have been raised that this provision could result in an expansion or enhancement of the substantive water rights of Indian tribes in terms of quantity or quality and/or an expansion of enhancement of the enforcement mechanisms available to Indian tribes to protect and preserve their existing water rights.

Last Wednesday, a discussion on this section was conducted between Senators, BURDICK, MITCHELL, ADAMS, and BAUCUS regarding the applicability of this section of the bill.

As was pointed out at the time by the distinguished chairman of the Environment and Public Works Committee:

> This section is not in any way to be construed as an impediment or restriction on existing water rights or laws, either that of various states or that of individual citizens.

The distinguished chairman went on to state that:

> Nothing in this act shall affect or interfere with any existing water quantities, rights, their specific elements, uses or methods of acquisition whether within or without the borders of any Indian reservation or any State. * * * Those water quality standards set by Indian tribes and accepted by EPA will not be used off reservation borders.

I appreciate this clarification made by these distinguished Senators. However, because of the importance of this matter to Western States in particular, I think it imperative that this point be reiterated.

I was additionally pleased to see the memorandum from the distinguished chairman of the House and Insular Affairs Committee regarding this matter. This memorandum, printed in total in both the Senate and House debates on this matter concluded that:

> * * * there is nothing in the existing law nor in the proposed amendments in H. 1/S. 1 which in any way expands the substantive rights of an Indian tribe to a quantity or quality of water.

Conversely, this memorandum concluded that:

> * * * there is nothing in the existing law or proposed amendments which impairs or is intended to impair in any way existing substantive water rights of any Indian tribe.

Finally, this memorandum concluded that:

> * * * there is nothing in the existing act or in the proposed amendments which gives EPA the power to force one State to change its approved water quality standards or those valid activities done in accordance with its plan in order to accommodate the water quality needs of another State or States.

As stated earlier, I appreciate the clarification of this matter, and believe it is of the utmost importance that the matter be clarified as such because of the importance of water and its allocations, particularly to the Western United States.

Mr. TRIBLE. Mr. President, I rise in support of the Water Quality Act of 1987. This legislation is essential if we are to maintain our national commitment to filling the requirements of the Clean Water Act.

The effort to restore water quality has particular importance for Virginia. The legislation before us makes a significant contribution to the restoration of the Chesapeake Bay. It will authorize a 3-year, $39 million bay cleanup program.

The Chesapeake Bay is one of our Nation's most important natural resources. Virginians depend on the bay for food, jobs, transportation, and recreation. Yet through the years population and development have clouded the waters of the bay, blighted her vegetation, and assaulted her creatures.

As a result of an intensive 7-year study by the EPA, sources of the bay's decline have been identified and the work of restoration began. And we have made progress.

The Bay States, Virginia, Maryland, and Pennsylvania, have initiated cleanup programs and with the EPA these States have formed a Federal-State partnership to coordinate bay programs.

Despite these gains more must be done. The revitalization of the bay requires a long-term commitment. Today's legislation sustains that commitment and will add to the improvements we have witnessed in the last several years.

The bill provides the resources to improve farm management practices to reduce pollutant runoff into the bay. It also funds badly needed stormwater control programs in urban and suburban areas. Moreover the bill continues funding for the Environmental Protection Agency's bay program office and for essential research programs.

The task ahead also demands that we establish water quality standards for toxic substances.

For example: A majority of the boats in the Chesapeake Bay utilize a special tin-based bottom paint called TBT. TBT paint is an effective antifouling agent that kills barnacles, sea grasses, and other aquatic life. Regrettably, it could also have a lethal effect on shellfish, finfish, and other marine species.

France, England, and Japan have regulated the use of TBT. The Environmental Protection Agency is conducting a special review of TBT compounds since determining that their continued use may present "unreasonable risks to nontarget aquatic organisms such as mussels, clams, oysters, and fish."

I am concerned about the potential harmful effects these paints may have on marine life and public health. Given the seriousness and urgency, I will be urging EPA to continue to monitor and study the effects that toxic substances, such as TBT, have on bay life.

I want to commend Senators STAFFORD, CHAFEE, and BURDICK for their work in drafting this bill and express my appreciation for their efforts in behalf of the Nation's environment.

Mr. RIEGLE. Mr. President, I rise today in support of the Clean Water Act of 1987. I am a cosponsor of this $20 billion measure to reauthorize and amend the Clean Water Act and I am anxious to see this first critical environmental bill of the 100th Congress signed into law.

Last year an identical bill was unanimously approved by the House and Senate and subsequently pocket vetoed by President Reagan after the November elections. The recent overwhelming vote by the House of Representatives in support of this bill sends another strong message to the President about the unwavering national support for this act which is supported by a wide range of groups including, environmental, State, industry, and labor unions.

This bill authorizes $18 billion for grants to aid cities in the construction of sewage treatment systems. Under this formula, Michigan will receive an annual allotment of $104 million for wastewater treatment grants for 5 years. A $400 million State-Federal program will also be initiated to control polluted runoff from farmland and city streets. This bill also tightens controls on toxic pollutants and funds various other activities to clean up our Nation's waters. Altogether, $20 billion in spending is authorized under this bill through fiscal year 1994.

Of particular importance to Michigan are the provisions in this bill which strengthen Great Lakes protection. A Great Lakes National Program Office would be established within the Environmental Protection Agency to carry out our responsibilities under the United States-Canada Great Lakes Water Quality Agreement of 1978. In addition, a Great Lakes Research Office within the National Oceanic and Atmospheric Administration would be created to develop an environmental research program and data base for the Great Lakes.

The bill also addresses the problem of toxic pollutants. It establishes pilot programs for toxic sediment removal from the Great Lakes and a nutrient loading project. This new system was devised to deal with toxic hot spots, places that may be polluted by toxic chemicals even after the strictest treatment requirements have been met by industrial dischargers. A mandatory process for the States and EPA to confront these toxic problems would be established. I am pleased that attention is being focused on this matter.

Reauthorization of the Clean Water Act is vital for continued progress toward cleaning our Nation's water. I urge the Senate to overwhelmingly vote for its passage.

Mr. SIMPSON. Mr. President, the Clean Water Act has been the one key in environmental legislation most directly responsible for making so much of this Nation's water fishable and swimmable by reducing water borne pollution of all types. It is important that Congress complete action on the Clean Water Act this year.

The Congress has taken measures to provide for Federal grants through the year 1994. However, Congress clearly recognizes the need to reduce the Federal deficit and intends to phase out direct construction grant funding by changing the program to a State revolving loan fund program. This is a vital change in the way we do our business with the States and municipalities that are responsible for constructing sewage treatment facilities. The benefits of a phaseout in direct aid are twofold—the Nation's waters will continue toward clean up, and the Federal deficit will not increase because of direct Federal participation in wastewater construction programs.

The clean water bill contains many other important programs besides the wastewater construction section. Various provisions in the bill have strengthened requirements that industries must meet. The legislation generally tightens and expands water pollution control efforts across the board.

For the first time we are authorizing a new nonpoint source pollution control program which is meant to reduce water degradation caused by different types of agricultural runoff and soil erosion. Congress has chosen to create a new nonpoint program which is a demonstration and grant program that will assist the agricultural community in its efforts to develop more efficient farming methods which will have the secondary benefit of protecting our Nation's waters. We purposely avoided implementing a mandatory regulatory program for nonpoint pollution. Assistance from all sectors of the public are needed if we are to effectively control nonpoint pollution and to mandate a mandatory regulatory program at this time would only alienate those who must comply with Federal regulations.

This legislation also establishes a program for cleaning up toxic hot spots which are areas that have waters which will not meet water quality standards even after polluters have installed the best available control technologies [BAT] required under the law. I believe that the clean water bill that was conferred last year—and I was a conferee—is a true compromise and will result in workable regulations in the real world. The Senate Environment and Public Works Committee and the various House committees have worked closely with the administration with all interest groups to craft programmatic language that represents a balanced approach to controlling water pollution.

Much of the Western United States have pristine waters that have never been degraded by manmade pollution. With the reauthorization of the Clean Water Act, we can now rest assured that these waters will continue to remain unspoiled. We may also be assured that those who must comply with the terms of the Clean Water Act will have some straightforward and predictable regulations to deal with.

Senator DOLE and I remain committed to doing everything we can to stimulate Congress to consider and approve additional environmental legislation this year. I am pleased with the success of the vigorous efforts of my friend, the ranking member of the Environment Committee, BOB STAFFORD, and my fine colleague Senator JOHN CHAFEE, who have worked so hard to produce this legislation. Most environmental issues are truly bipartisan in nature and I trust that this will be a productive year where environmental legislation is thoughtfully and fully considered. I look forward to our continued progress.

Mr. President, the following is a statement I submitted for the RECORD last year with some corrections and additions.

STATEMENT OF SENATOR SIMPSON

I am pleased to support the reauthorization package of the Clean Water Act embodied in the Conference Report. Having been involved in the reauthorization process over the past two years, I have been impressed not only by the commitment of Senator Chafee, who ably led our work, but also by the willingness of both House and Senate conferees to work toward necessary compromises.

This year has been a landmark year for environmental legislation. We have seen the Senate pass a new Superfund, reauthorize the Clean Water Act, and pass an asbestos in schools bill. In addition, we have passed and the President has signed a reauthorization of the Safe Drinking Water Act.

I was pleased to be a member of the Clean Water Act conference and I trust the White House will give every consideration to signing this bill into law. We have made great progress in the past decade in cleaning up this nation's streams and lakes. Many waters that were polluted years ago are now fishable and swimmable and we must continue to make diligent efforts to ensure that more lakes and streams are cleaned up and that the pristine waters we have in the west remain pristine.

Of course, the greatest compromise is that which the Congress has now struck with the White House: the Administration has won its battle to phaseout the predominant federal role in financing construction grants. This is a major accomplishment on the part of the Administration, and I believe it is in the national interest to move toward innovative financing mechanisms deriving support, as far as possible, from the people who will benefit most directly from new treatment works. This bill does that, and does so while providing for adjustment for communities which may not have taken full advantage of the federal aid available in the past.

The Conference deleted several troublesome provisions, such as the section entitled "preservation of other rights" in the Senate bill, which could have led to foreseeable as well as unintended disruption of the nation's state-federal partnership in water quality control and permitting. There are a number of delicate yet critical questions concerning intergovernmental relations in water quality regulation, and I am pleased that the U.S. Supreme Court will take the opportunity this term to wrestle with conflicting circuit court opinions concerning the laws applicable in cases where affected parties in downstream states allege harm from permitted discharges in upstream states. Along with other members of the Environment and Public Works Committee, I will carefully examine the court's ultimate holding in *International Paper v. Ouelette*, which is anticipated early this year.

For the first time we have included a provision in the Clean Water Act related to non-point source pollution that comes from farm lands, timber operations, and other sources of run-off which are not considered point sources. Western and mid-western Senators worked hard to ensure that we were not beginning a new full fledged regulatory program in this regard. Instead, we provided for a voluntary program where states may participate if they so desire. When states choose to participate in the non-point source program they will become eligible for grants to carry-out non-point demonstration and education programs. If states do not choose to participate in the program the only penalty is a lack of federal funds for non-point demonstration projects.

I believe some clarification is needed of a subsection in the non-point provision relating to interstate conferences. The statute allows downstream states to petition the EPA Administrator to convene a management conference of all states affected by pollution from non-point sources in another state. However, states are not required to participate in these management conferences. There is no penalty for not participating in such management conferences. If states do choose to participate in a management conference that the Administrator convenes, states are not required to agree to any changes in their non-point source programs. If states do not agree to make changes in their non-point source programs, there is no penalty for this lack of action.

Participation in interstate management conferences is totally voluntary as are any agreements. The conferees discussed this provision at length and it was determined that management conferences would be provided as a vehicle for states to use in discussing pollution of a non-point nature that occurs in adjacent states. The statute is very clear that there is no forcing mechanism, nor is there a provision of penalties for states that do not wish to participate or for states that participate but that do not wish to make agreements with other states.

If a state chooses to reach an agreement with other states it is then expected that changes in that state's non-point pollution plan will reflect those agreements in the future. Where states are participating in a federal non-point grant program, in no case will grant monies be withheld because a state refuses to participate in a management conference, or refuses to reach agreements with other states in such a management conference.

In addition, nothing in any agreements reached at a management conference shall supersede or abrogate rights to quantities of water which have been established by interstate water compacts, Supreme Court decrees or state water laws, nor shall these agreements apply to any pollution which is subject to the Colorado River Basin Salinity Control Act. This would include naturally occurring salts and other solids covered by the Colorado River Basin Salinity Control Act.

The non-point source pollution control program was formulated in such a manner that EPA would be granted great latitude in approving state management plans. Non-point pollution varies greatly from state-to-state and programs to control this pollution will also vary greatly. Therefore, EPA has the authority to approve plans with varying complexity.

It should also be pointed out that the zero discharge goal listed under the Clean Water Act does not apply to non-point source pollution because this goal relates to point sources only.

This authorization of the Clean Water Act also contains provisions often referred to as anti-backsliding sections. Deletion of House Section 402(p)(2)(E) is not intended to prevent permittees that have a zero discharge limitation from successfully having their permits modified to allow discharges if problems with operation and maintenance activities are encountered. For example, if a general permit required re-injection of produced waters in an oil and gas operation and subsequent promulgated guidelines rejected this technology, such general permits could then be modified based upon new information.

The Conferees also considered a series of issues related to the role of Indian tribes under the Clean Water Act. On the issue of authority under Section 303, there are questions similar to those in the interstate arena, concerning the relationship between water quality standards and permitting by tribal governments and how they might be reconciled, where necessary, with those set by states. Our agreement includes direction to the Environmental Protection Agency to develop a mechanism for dispute resolution in this context, as well as a requirement that certain factors be explicitly included in the disposition of all situations requiring resolution of any unreasonable consequences that may arise as a result of differing water quality standards that may be set by states and Indian tribes on common bodies of water. The factors that must be fully considered, in addition to other relevant factors, include the effects of differing water quality permit requirements on upstream and downstream dischargers, economic impacts, and present and historical uses and quality of the waters subject to such standards.

As the Senator most involved in developing the Conference Report language in this area, I am convinced that a workable situation will result from the application of this provision. In addition to the specific factors to be included in the resolution of such cases—factors which I believe will provide assurance to states and citizens concerned with the effects of new authority being granted to tribal government—we have provided that the mechanism be used to resolve "any unreasonable consequences" that may arise from differing water quality standards adopted by tribal governments. The term "any unreasonable consequences" is necessarily broad, and the intention of the Conferees in including this term is to have the dispute resolution mechanism (which includes the specified factors) triggered by a low threshold. This will serve the interests of the tribal governments and others who share in the hope that the Indian tribes provisions in this legislation can be made to work well. Nothing in this provision would interfere with existing private and state water rights.

With regard to general permit toxicity limits—I find it curious that the oil and gas industry is being subjected to different regulatory approaches in the EPA regions. For instance, EPA regions IX and X have issued general permits covering numerous offshore facilities which provide for the discharge of EPA approved muds and additives. While EPA regions IV and VI have also issued general permits, they reject this approach and require muds and additives to meet certain toxicity-base limitations. The difference between these approaches is that one sets up an end-of-pipe numeric limitation whereas the other controls what can be put into the pipe and later discharged.

There are other differences between EPA regions as well. Drilling muds and additives are subject to high pressure and temperature conditions "down hole" and frequently pick up materials from geologic zones drilled through. The existence of these factors and their precise affect upon the toxicity results is little known at the present time because of antagonistic and synergistic affects. So we can see that one operator could use certain drilling muds and additives and find out weeks later that his discharge violated the end-of-pipe numeric limits whereas a second operator could use the very same drilling fluids and additives and satisfy the same limit because of different underground conditions.

My hope is that EPA will correct this unfairness and adopt a logical, consistent, and common sense approach to regulating the discharges such as the approach being implemented by regions IX and X. I know of no persuasive reason why this should not be pursued by other EPA regions or why it should not be an essential element of EPA's soon to be promulgated effluent guidelines for this industry.

In conclusion, I would like to thank Senator Chafee for his fine efforts during the Clean Water Act conference. I would also like to thank Senator Bentsen for his role in the conference as well. Without the efforts of these two hard working Senators we would not be considering this conference report today.

Mr. SIMPSON. Mr. President, I was one of the original conferees during consideration of the Clean Water Act last year. All of the conferees worked hard and long to produce a bill which represented a true compromise between both houses of Congress. Unfortunately, we were working on the bill down to the end of the session and were rushed to complete action on the bill. The Senate conferees managed to get the best deal possible, but that still wasn't the very best deal in the construction grants department.

I fully support a strong reauthorization of the Clean Water Act, but I have serious reservations about levels of Federal spending which may be excessive. The administration has attempted to put together a Clean Water Act proposal which would reduce the authorization by $6 billion over 8 years. As responsible legislators, we should all support a measure that is essentially the same piece of legislation we passed last year but without the excess fat.

There are some very real needs in this country for new waste water construction projects especially where the Clean Water Act is mandating compliance with standards by municipalities. However, we are all familiar with the exceptional story where millions are spent to construct a waste water project and when it is completed it doesn't even function effectively. We had one like that in my own State—the GAO even did a report on it. The town of Thayne, WY, built a multimillion dollar sewage treatment plant and allowed a cheese factory to put their waste water into it and it couldn't handle cheese waste. We ended up only with one great big stinky mess for the millions of dollars that were blown on that project.

The administration has proposed a responsible bill that saves $6 billion in authority and that is something that ought to get our attention. There are other features of the administration bill which deserve our attention. Moneys which are earmarked for first priority projects would go to construction activities related to Clean Water Act enforceable requirements and regulations. That way we would be certain to funnel the money to towns and cities that are potential violators of the Clean Water Act first.

In addition, States could use construction grant moneys for grants or loans. Thus, the States would have greater flexibility in administering their wastewater programs.

The administration bill provides that loan repayments could be used for categories of construction in the future which are broader than the initial criteria in the bill. This way, cities and towns would have funding for collector sewers and other wastewater accessory programs. The administration has presented a credible alternative to the high-priced Clean Water Program that was developed during the closing hours of the 99th Congress. If we are truly concerned about Federal spending and the Federal deficit and the environment, we should support the administration bill.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MITCHELL. Mr. President, I yield 2 minutes to the distinguished chairman of the committee, the Senator from North Dakota, who has played a major role in bringing this legislation forward.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. BURDICK. Mr. President, it is clear that the vote is concluded, the administration substitute offered by Senator DOLE will not prevail. The Senate will follow that vote with an overwhelming endorsement of H.R. 1.

In part that strong vote will be a tribute to the leadership and energy of the able floor manager, Senator MITCHELL, chairman of the Environmental Protection Subcommittee, and to Senator CHAFEE, who developed this bill as subcommittee chairman and leader of our conferees in the last Congress. I want also to thank the majority leader for his cooperation in making this bill the first business of the 100th Congress, and his work in encouraging strong Senate support for the clean water legislation.

The major reason for this overwhelming vote, however, is the fact that the American people want clean water. They believe that the sewage treatment funding contained in this bill is an investment, repaying the dividends of a clean environment for years. They know we can afford to make this investment. And the people have let us know they want this bill passed.

I hope that when this bill reaches the President, he will listen to the desires of the people. We are giving you a second chance, Mr. President. Sign this bill, as States and cities and the people at large are urging you to do. At least let this historic clean water legislation become law. In film-making there is always a "take two." It is not that often in legislation one has a second chance to do the right thing. Let this bill—unfinished business of the 99th Congress—become the first public law of the 100th Congress.

The PRESIDING OFFICER. The Senator has used 2 minutes.

The Senator from Maine.

Mr. MITCHELL. Mr. President, I am about to yield to the Senator from West Virginia and the Senator from New York. As I understand it, very little of the time by the proponents of the amendment has been used. The distinguished minority leader, the sponsor of the substitute amendment, has asked that only 15 minutes of their time be reserved for him to make a statement.

Therefore, I ask unanimous consent that I may yield to the distinguished majority leader and that the time he uses be charged against Senator DOLE's time and that the same be true of the statement by the Senator from New York, whose statement will follow.

The PRESIDING OFFICER. Is there objection? The Chair hears none. It is so ordered.

Mr. BYRD. Mr. President, I thank the distinguished minority leader. I thank the Senator from Rhode Island, who is, at the moment, the acting Republican leader, and I thank the manager of the bill, Mr. MITCHELL.

I would prefer that Mr. MOYNIHAN go first under the arrangement.

Mr. MOYNIHAN. The distinguished majority leader is on the floor. I will learn from his remarks.

Mr. BYRD. I thank the distinguished Senator.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I urge my colleagues to vote against the substitute to the Water Quality Act of 1987. The substitute is being offered by the Republican leader. I have spoken at some length over the last 2 weeks on the merits of H.R. 1 which is identical to legislation that was approved unanimously by both the House and the Senate during the closing days of the 99th Congress. H.R. 1 becomes even more significant when compared to the alternative being proposed by the administration in the form of the substitute, on which the Senate will shortly vote.

H.R. 1 provides $18 billion through fiscal year 1994 in aid to State and local governments for the construction of wastewater treatment facilities. By contrast, the substitute would provide $12 billion. The difference is significant. In my State of West Virginia, for example, local governments would receive $25.23 million less through fiscal year 1990 under the administration's substitute, based on an analysis provided by the Congressional Research Service.

There are other important distinctions that I urge Senators to keep in mind. H.R. 1 provides $8.4 billion through fiscal year 1994 to capitalize State water pollution control revolving funds. These revolving funds are critical to the process of providing State self-sufficiency, and of reducing, and ultimately eliminating, the Federal Government's role in providing assistance for the construction of wastewater treatment facilities.

H.R. 1 provides the seed money necessary to allow States to move toward a self-financing system for future construction. Considering that EPA has estimated that $109 billion will be needed by the end of the century in order to bring all communities into compliance with existing law, these revolving funds are essential if we are to maintain our commitment to clean water. The substitute does not set aside any money for these revolving funds, thus forcing the States to take dollars out of existing construction projects in order to establish them.

H.R. 1 allows loans from the revolving funds to cover 100 percent of project costs; the substitute would allow loans to cover only 55 percent of a project's cost. This would further disrupt State and local planning, by forcing communities to raise 45 percent of the needed funds from other sources.

Another important difference between the substitute and H.R. 1 involves nonpoint source pollution management. Nonpoint pollution may be the most important unresolved water pollution problem that we face. H.R. 1 would require States to develop programs to deal with nonpoint sources and would also provide $400 million to aid the States in setting up these programs. The substitute, however, would make a nonpoint source program totally discretionary and would provide nothing in the way of assistance to the States.

Mr. President, the administration's substitute is a very poor substitute. H.R. 1 has received broad support because it is important, timely, and effective legislation. Most significantly, this bill proves that we can have fiscal restraint without sacrificing the quality of our lives and the heritage we seek to preserve for our childeren.

I urge my colleagues to defeat the substitute and to support H.R. 1.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I would return briefly to a theme which I spoke to on the occasion that H.R. 1 was first introduced at the outset of this Congress.

This legislation passed unanimously in this body and in the House also at the end of the 99th Congress, and now has again overwhelmingly passed in the House. Before us is legislation that will bring to an appropriate conclusion a Federal program to clean up American water supplies that began in 1972 with passage of the Clean Water Act.

We are putting in place for one last 4-year period the Federal Grant Program. Then we will institute a revolving loan fund from which communities can borrow moneys which they repay, to form a perpetual fund to be used as long as necessary. With this act, Congress concludes an important period of environmental intervention.

In 1972 when we set out to establish a simple criterion that the navigable waters of the United States should be fishable and swimmable, we had in mind a program that would come to a conclusion when the job was done. The Federal Government mandated these standards, which the States are required to meet, and properly the Federal Government said, "We will assist in that effort."

Now we come to its final phase, one last round of grants, and then a continuing source of financing for the States to assume the obligation. Not to do this is to leave undone a problem which is doable, and which the Nation clearly—Congress after Congress, Presidency after Presidency—said it wants done. It is almost a matter of fading memory how very serious these matters were, and how badly we had polluted our waters when we first began this task. The distinguished Senator from Vermont spoke to the point that there was a time when if you fell into the Potomac River there was no point in climbing out again because you were thoroughly toxified by that very immersion.

At a NATO meeting on environmental matters in 1970 when I once remarked that all our nations had distinctions of which we were proud, and justly so, but that ours has a distinction which we were not necessarily proud of but which we surely thought was distinctive. We had a river that had caught fire. This river, Cuyahoga River which runs through Cleveland, was polluted. It literally caught fire. And the firemen with fire hoses had to come to put it out. Such incidents are behind us for the most part. Cleaning up and what is important is not just cleaning up but the idea of cleaning up to the standard of "swimmable and fishable". Now we know better and we do better and so we bring this Federal phase to an end.

The administration's legislation, S. 76, does not bring anything to a conclusion. It puts an inadequate amount of money into a grant program for the next 4 years, then provides nothing for a revolving loan fund to follow on as the distinguished majority leader has just observed.

One other point, Mr. President. To pass this legislation last year, we worked in a committee of conference lasting 12 months. I was a member of that conference, and it is a task you do not forget after spending that much energy and time. We agreed to assign $400 million to a program for control of nonpoint pollution. This is a more serious problem than we had first realized. We do not in any sense suppose we are going to resolve it for once and for all in this 4-year period. But we have identified it and we are going to address it.

In the process of learning about this problem, Mr. President, we already had notions of how waterways become polluted. We thought they were polluted through old, manmade discharge systems constructed in our communities. In the New York harbor where there are some of the cities on each side of the Hudson River there are still in use wooden sewers from the last 18th century, and from the early 19th century when iron was hard to come by and trees were not. They will serve. Some of them have served a century and a half or perhaps more.

But we have found as we proceeded to control those nonpoint discharges that they are not exactly that part of the lake or the river which is receiving the effluent. We found that even so, after controlling point sources certain kinds of pollution continued. We asked our experts in engineering and applied science, 'Why was it continuing?' Then, of course, it emerged that much pollution flows into waterways and lakes from fields and from roads. Agricultural fertilizer can be a source of such pollution. The Great Lakes have had great experience with that. For a long while, it looked as if in Lake Erie, the algae were growing so fast from the accumulation of fertilizers which spurred algae growth—that the algae gradually were using the lake's oxygen. This results in eutrophication, the dying of the lake. All lakes eventually over many hundreds and thousands of years die, but not in front of your eyes. That happened to Lake Erie. It has been reversed by our attention to this kind of detail.

The estuaries are a particular concern of ours with regard to nonpoint pollution because they are an especially delicate and wonderfully productive form of aquatic environment where salt water and freshwater meet. They support all manner of aquatic organisms, many of which we utilize as seafood.

The Puget Sound is but one such setting. The Chesapeake Bay is another.

We are aware of the problem posed by nonpoint source pollution. We know there are environmentally-responsible people in the administration, but the bill that has come to us from the Office of Management and Budget does not address this question as we do, not as it need to be addressed.

We simply say that in the future

this will be one of our concerns. We are going to complete the federally funded phase of this program, and will be very proud of what we have done. We are going to leave the waterways and the lakes of our country in a better condition than we found them.

I do not know how many parts of the environment about which we will be able to say that in this generation. But with respect to water we will be able to say, "We found it dirty and left it clean." That is something that this generation will be remembered for if we simply reject this substitute, and approve the legislation that we adopted last year, and pass H.R. 1.

Mr. President, allow me to review the goals of the Clean Water Act.

GOALS OF 1972 CLEAN WATER ACT

The Federal Water Pollution Control Act was enacted in 1972 with an exuberantly optimistic set of goals. By 1983 the act envisioned clean rivers throughout the Nation; by 1985 it sought to eliminate altogether the discharge of pollutants into our waters.

Two major strategies were embodied in the act to achieve these goals. First, a large Federal grant program was established to help local areas construct sewage treatment plants. According to the Congressional Budget Office, $52 billion—in 1984 dollars—total has been spent by the Federal Government on this construction grant program since 1972.

Second, the act required that all municipal and industrial wastewater be treated before being discharaged into waterways, to remove pollutants ranging from organic materials, bacteria, and viruses to toxic chemicals and heavy metals.

Under the act's National Pollutant Discharge Elimination System the Environmental Protection Agency established limits on the maximum allowable discharge of specific pollutants from treatment plants and industrial facilities. These limits were based on available detection and control technologies, and took into account the compliance costs to the regulated community. They are written into permits issued to all such discharging facilities.

Significant progress has been made toward cleaning up the Nation's waters. according to EPA's 1984 National Water Quality Inventory, many of the most severe pollution problems of the 1960's and 1970's have been abated. Moreover, despite substantial growth in the Nation's population, industry, and development, overall water quality remained roughly stable between 1972 and 1982—a major accomplishment. A 1984 study by the Association of State and Interstate Water Pollution Control Administrators found that of 350,000 miles of streams and rivers monitored during this period, water quality improved in 13 percent, stayed the same in 84 percent, and declined in only 3 percent. We have been doing something—several things—right.

The Clean Water Act Amendments of 1986 strengthen and add to our current statutes. I will review briefly the most important provisions in these amendments.

CONSTRUCTION GRANTS FOR SEWAGE TREATMENT PLANTS

S. 1 authorizes $18 billion in Federal support over 8 years for the construction grants program, on a 55 percent Federal, 45 percent State basis. This program enables construction and upgrading of sewage treatment plants. The goal is to have all sewage treatment plants achieve secondary treatment by 1988 (a process which removes 85 percent of solid and organic matter). In 1989, the revolving fund plan begins, the goal of which is to convert the States' construction grants program into a self-financing program. Such an approach has worked extremely well in Texas and other States. The Governor will have the discretion to apportion grant funds and loan funds in order to meet the particular needs of his or her State. With wise planning, the States should make this transition without any disruption in their current schedules of priority work.

I am pleased that the current allocation formula for construction grants has been left virtually in place. This formula, which is based on the current EPA needs survey, correctly reflects the immediate needs in our urban areas in the Great Lakes and Chesapeake Bay regions. Our older cities place the greatest population pressures on the water systems, which also tend to be the oldest systems. New York receives $268 million annually under this allocation.

NONPOINT SOURCE POLLUTION

This bill provides $400 million to initiate the first national program to control nonpoint source pollution, primarily runoff from agriculture and urban areas. Scientists at EPA have determined that nonpoint source pollution (pollution not from a single pipe or outfall) is a significant contributor to degradation of water quality. This includes runoff contaminated by fertilizers and other chemicals, as well as runoff from city streets which often contain high levels of salts and oils.

As part of this effort, conferees worked diligently with cities and counties as well as with environmental groups to devise a stormwater permit system what would improve water quality without being too costly or too cumbersome for EPA to administer. A recent court decision had ordered EPA to issue permits for virtually all storm sewers, which would have required EPA to issue 50,000 more permits on top of the 65,000 point source permits EPA already issues. This would have diverted EPA personnel efforts from control of toxic contaminants in water to a paper shuffling exercise that would not result in environmental improvements in most cases. The conference agreed on a provision which would require permits from industrial discharges to storm sewers, and from cities over 250,000 in population where those discharges are significant contributors to pollution.

CLEAN LAKES PROGRAM

S. 1 provides $85 million for a Clean Lakes Program which States can use to clean up silted lakes, and to lime acidified lakes.

ESTUARIES PROGRAM

The bill provides $48 million for an Estuary Research Program, which identifies several estuaries of national importance, including New York and New Jersey Harbor. Under this provision EPA can offer up to $10 million per year on a 50-percent matching basis to States to study and implement cleanup in the New York-New Jersey Harbor area.

BAN ON DUMPING OF SLUDGE IN THE NEW YORK BIGHT

The bill bans as of December 1987 any additional users from dumping sewage sludge in the New York Bight 12 miles off Sandy Hook, NJ. The bill also restricts the use of the site 106 miles off the coast to those currently using the 12-mile site.

FUNDS FOR BOSTON TREATMENT PLANTS

S.1 includes $100 million to fund sewage treatment plants in Boston Harbor, assisting Boston in complying with its court-ordered directive to stop dumping sludge in the ocean.

GREAT LAKES OFFICE

The conferees agreed to establish a Great Lakes International Coordination Office within EPA to focus on control of toxic pollutants and achievement of goals in the Great Lakes Water Quality Agreement of 1978. The bill also establishes a Great Lakes Research Office with the National Oceanic and Atmospheric Administration to carry out a comprehensive Great Lakes research program, with special attention to sediment control projects.

The Great Lakes Office program includes a $11-million annual authorization from 1987 to 1991 for a data base for monitoring and cleanup of the water quality of the lakes, and for priority cleanups of contaminated sediments in five target areas in the Nation, one of which is the Buffalo River in New York.

TOXIC HOTSPOTS

The Clean Water Act Amendments of 1987 establish a new "toxic hotspot" program which requires EPA and the States to work together to identify toxic hotspots which require special attention and additional controls. EPA has already tentatively identified 34 of these areas which may require more stringent controls than the "best available technology" standard currently mandated by the act. Albany, Rochester, and Syracuse were areas in New York listed by EPA for this priority attention. In addition, the International Joint Commission has identified 42 areas of concern for toxic pollutants in the Great Lakes. These include the Buffalo River, Eighteen Mile Creek, Rochester Embayment, Oswego River, Niagara River and St. Lawrence River in New York. EPA will review the IJC's recommendations in augmenting its toxic hotspot program.

CLEAN WATER IN NEW YORK

If this legislation passes, which we have every confidence it will, New York will receive $268 million annually in Federal grants through 1990, or nearly $1.1 billion of the $18 billion authorized across the Nation. This is the highest annual amount received by any State. (California is the next highest recipient at $173 million annually; New Jersey receives $99 million, and Connecticut $30 million.)

Without this legislation, a number of New York treatment facilities will be unable to meet the July 1, 1988, deadline mandated under the act for secondary treatment. The Office of the Attorney General of New York has already begun to notify municipalities which may not be able to meet their compliance schedules.

I need not remind New Yorkers of our dependence on clean water. The striped bass in the Hudson are too contaminated to be eaten safely. Long Island's aquifer which is the drinking water for 3 million people is being depleted and polluted. And under New York City's streets old leaky water mains reluctantly disperse water to city residents.

Passage of the Clean Water Act Amendments of 1987 must be the cornerstone of our Federal water policy. The 99th Congress passed the Safe Drinking Water Act, which strengthened EPA's capacity to protect and to improve our country's drinking water supplies. The Safe Drinking Water Act contains the Sole Source Aquifer Protection Act, which I first introduced in 1982, designed to protect irreplaceable aquifers such as the one on Long Island. Together with national ground water legislation, which I am also introducing in the 100th Congress, these statutes will provide a comprehensive approach to maintaining and improving our water. We cannot afford to wait until these waters are polluted. It is much more expensive to clean up water—particulary ground water—after contamination than to prevent it in the first place.

Mr. President, I ask unanimous consent that certain information which I am submitting pertaining to this matter be printed at this point in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Appendix A

ESTIMATE OF FEDERAL CONTRIBUTION TO PRIORITY WATER TREATMENT FACILITIES IN NEW YORK STATE

	Estimated total cost	Estimated Federal share
Project (FY 1987):		
Ft. Covington (St. Lawrence County)	$2,726,000	$1,499,300
Village of Oxford (Chenango County)	4,610,600	2,535,830
Village of Gowanda (Cattaraugus County)	9,700,000	5,335,000
Village of Croghan (Lewis County)	2,700,003	1,485,000
Schuylerville (Washington County)	1,268,500	697,675
Cuba (Allegany County)	2,900,000	1,595,000
Cedar Creek Sewage Plant (Nassau County)	48,000,000	36,000,000
Mamaroneck Sewer District (Westchester County)	8,625,000	4,743,750
Dewey Eastman Tunnel (Monroe County)	24,300,000	13,365,000
City of Gloversville (Fulton County)	6,170,000	3,393,500
Batavia (Genesee County)	28,776,000	15,826,000
Buffalo (Erie County)	5,589,565	3,074,261
South Glens Falls (Saratoga County)	3,500,000	1,925,000
Chautauqua (Chautauqua County)	440,477	310,457
Binghamton (Broome County)	11,831,300	6,507,215
Cheektowaga (Erie County)	872,765	654,564
Cheektowaga (Erie County)	263,050	144,678
Great Neck (Nassau County)	16, 277,681	8,952,724
Great Neck (Nassau County)	2,990,776	1,644,927
Westchester County (New Rochelle)	650,000	487,000
Greece (Monroe County)	1,043,500	573,925
Rochester (Monroe County)	13,500,000	10,125,000
LeRoy (Genesee County)	437,333	328,000
Owls Head (Brooklyn)	14,816,963	11,112,722
Do	48,588,494	36,441,370
Do	53,119,363	39,839,523
Oakwood Beach (Staten Island)	49,000,000	26,950,000
Do	5,000,000	3,750,000
Project (after 1987):		
Oakwood Beach (Staten Island)	100,000,000	NA
Owls Head (Brooklyn)	87,000,000	NA
Coney Island (Brooklyn)	280,000,000	NA
Bay Park (Nassau County)	53,000,000	NA
Mamaroneck (Westchester County)	116,000,000	NA
Rochester (Monroe County)	27,000,000	NA
Oriskany Falls (Oneida County)	4,300,000	NA
Stillwater (Saratoga County)	1,300,000	NA
Bolivar (Allegany County)	2,200,000	NA

Appendix B

Attached is a detailed summary of the toxic hotspot provisions of the Clean Water Act Amendments, S. 1128 in the 99th Congress, S. 1 in the 100th Congress. Included is a list compiled by EPA in 1982, which EPA will augment under the new Act. EPA may add to its toxic hotspot list based on recommendations by the U.S.-Canadian International Joint Commission, which has identified 42 areas in the Great Lakes in the U.S. and Canada which are badly contaminated.

Source.—Northeast Midwest Institute, Eric Schaeffer, (202) 544-5200.

II. TOXIC HOTSPOTS (S. 1128)

Background

There are two primary approaches to controlling water pollution under the Clean Water Act. The first is to measure the quality of water into which pollutants are being released, to determine which industries are responsible for the pollution, and to require those parties to reduce their discharges by the amount needed to make the water at least "fishable and swimmable." The second is simply to require all industries to reduce their discharges to a predetermined level, based on the best pollution control that is economically achievable. The latter, "best available technology" (BAT) standard has been the exclusive method of regulation thus far, due to the technical difficulty of water-quality based permitting.

However, it has become clear that in certain areas, the water may remain unacceptably contaminated with toxic pollutants even after all the industries have applied BAT. In 1982, the EPA tentatively identified 34 of these areas; the 19 in the Northeast and Midwest are identified below.

Hartford, Connecticut; Gary, Indiana; Des Moines, Iowa; Pittsfield, Massachusetts; Springfield, Massachusetts; Midland/Saginaw, Michigan; Minneapolis/St. Paul, Minnesota; Passaic, New Jersey; Albany, New York; Rochester, New York; Syracuse, New York; Canton, Ohio, Dayton, Ohio; Lima, Ohio; Youngstown, Ohio; Allentown, Pennsylvania; Philadelphia, Pennsylvania; Pittsburgh, Pennsylvania; Scranton, Pennsylvania.

EPA stressed that the identification was preliminary, stating that "The list was compiled not from water samples but rather through paper and pencil calculations on toxic pollutants that may be present, based upon the industries that discharge to these waterways and the amount of toxic pollutants they discharge."

The U.S.-Canada International Joint Commission has identified 42 areas of the Great Lakes shoreline in the U.S. and Canada that are badly contaminated by toxic pollutants. It is possible that some of these areas on the U.S. side may eventually be listed for regulation under the toxic hotspot provision established by the conference report. Attachment 2 provides a list of the locations of the 42 "areas of concern" identified by the IJC, and their sources of contamination.

Conference report

The conference report requires EPA to develop guidelines for use by states in identifying those areas (1) where water quality would remain below the acceptable standard (2) due primarily to toxic pollution from industrial discharges (3) after those industries had applied to their plants the best available technology for controlling pollution. The states then would have two years to identify the areas within their jurisdictions that fell under the federal guidelines. EPA would be required to identify any toxic hotspots within a state that failed to meet the deadline.

States then would have another two years to develop individual control strategies to further limit pollution from point sources, and an additional three years to bring water quality to the required standard by putting those strategies into effect. EPA would be required to develop and implement control strategies for those states that failed to meet the deadline. The conference report would allow the agency to waive the more stringent point source requirements for no more than five years for industries that could show that (1) the current control technology was the maximum economically feasible for that industry and (2) that it was sufficient to make "reasonable further progress" toward meeting water quality standards.

Part of the problem with water quality based permitting is that EPA has lagged behind in developing criteria that can be used to develop effective water quality standards. The conference report would require EPA to develop those criteria within three years of enactment, and would require states to incorporate them into the water quality standards upon which individual control strategies would be based.

III. GREAT LAKES (S. 1128)

Background

The National Academy of Sciences (NAS) reported last year that the population of the Great Lakes basin was exposed to appreciably more toxic substances than that of the U.S. as a whole, due in part to the consumption of contaminated fish from the area. The report criticized EPA's neglect of the U.S.-Canada Water Quality Agreement, a comprehensive treaty establishing ambitious goals for the elimination of toxic discharges to the Lakes. The NAS critique reflected concerns raised by the General Accounting Office in the latter's 1982 report highlighting the disorganization and underfunding characterizing U.S. Great Lakes programs.

Conference report

The conference report includes a title establishing for the first time a comprehensive U.S. program for the cleanup of the Great Lakes. The amendment provides explicit congressional recognition of the Water Quality Agreement, and designates EPA's Great Lakes National Program Office (GLNPO) as the lead agency responsible for U.S. compliance with the agreement. GLNPO would have to establish a toxics monitoring and surveillance network for the lakes, and to develop and coordinate a multi-agency program for cleanup.

The amendment earmarks $14.5 million for creation within the National Oceanic and Atmospheric Administration of a comprehensive environmental data base for the lakes, so that research gathered painstakingly through dozens of individual projects would be "banked" for future use. The amendment also earmarks $22 million for a special program to begin the task of cleaning up sediments contaminated by toxic pollutants at the Great Lakes areas of concern identified by the International Joint Commission.

These contaminated sediments are a prime source of the toxics infesting Great Lakes fish, and may be stirred up and released into the water by shipping or dredging activities. Five sites are mentioned specifically for demonstration cleanup to ensure that the program gets off the drawing board and to give Congress a basis for evaluating the agency's progress. The five sites are:

Sheboygan Harbor, Michigan
Saginaw River, Michigan
Grand Calumet Harbor, Indiana.
Ashtabula River, Ohio.
Buffalo River, New York.

ATTACHMENT 2.—SOURCES OF POLLUTION FOR GREAT LAKES AREAS OF CONCERN

Area of concern	In-place pollutants	Industrial point sources	Municipal point sources	Urban nonpoint	Rural nonpoint	Combined sewer overflows	Waste disposal sites	Unknown
Peninsula Harbour, Ontario	X	X						
Jackfish Bay, Ontario	X	X						
Nipigon Bay, Ontario	X	X						
Thunder Bay, Ontario	X	X						
St. Louis River, MN	X							X
Torch Lake, MI	X	X						X
Deer Lake-Carp River, MI	X							
Manistique River, MI	X	X	X					
Menominee River, WI/MI	X							
Fox River/South Green Bay, WI	X	X	X					
Sheboygan Harbor, WI	X							
Milwaukee Estuary	X	X	X	X	X	X		
Waukegan Harbor, IL	X							
Grand Calumet River/Indiana Harbor Canal, IN	X	X	X	X		X		
Kalamazoo River, MI	X							
Muskegon Lake, MI								
White Lake, WI		X						
Saginaw River/Saginaw Bay, MI	X	X	X					
Collingwood Harbour, Ontario	X		X					X
Penetang Bay to Sturgeon Bay, Ontario			X	X	X			
Spanish River, Ontario	X	X						
Clinton River, MI	X	X	X	X	X	X		
Rouge River, MI	X	X	X	X	X	X		
Raisin River, MI	X	X	X	X	X	X		
Maumee River, OH	X	X	X	X	X	X		
Black River, OH	X	X	X	X	X	X		X
Cuyahoga River, OH	X	X	X	X		X		
Ashtabula River and Harbor	X	X		X				

ATTACHMENT 2.—SOURCES OF POLLUTION FOR GREAT LAKES AREAS OF CONCERN

Area of concern	In-place pollutants	Industrial point sources	Municipal point sources	Urban nonpoint	Rural nonpoint	Combined sewer overflows	Waste disposal sites	Unknown
Wheatley Harbour, Ontario	X	X	X					X
Buffalo River, NY	X	X	X	X		X		X
Eighteen Mile Creek, NY	X	X		X		X		
Rochester Embayment, NY	X	X	X	X		X		
Oswego River, NY	X	X	X	X		X	X	
Bay of Quinte, Ontario		X	X	X				
Port Hope, Ontario	X						X	
Toronto Waterfront, Ontario	X	X	X	X		X		
Hamilton Harbour, Ontario	X	X	X	X		X		
St. Mary's River, Ontario/Michigan	X	X	X	X		X		
St. Clair River, Ontario/Michigan	X	X	X			X		
Detroit River, Ontario/Michigan	X	X	X	X	X	X		X
Niagara River, Ontario/New York	X	X	X	X		X	X	
St. Lawrence River, Ontario/New York	X	X		X		X	X	

Source: Great Lakes Water Quality Board, 1985 Report on Great Lakes Water Quality, report to the International Joint Commission.

GREAT LAKES PROGRAM IN CLEAN WATER ACT
H.R. 1

SOURCE: CONFERENCE REPORT S. 1128 (S. 1 IN 99TH CONGRESS)

Conference substitute

The conference substitute contains a statement of purpose which is to achieve the goals embodied in the Great Lakes Water Quality Agreement of 1978. It establishes the Great Lakes National Program Office within the Environmental Protection Agency and specifies the duties and responsibilities of the Program Office.

The Program Office is to: develop and implement action plans to carry out the duties of the United States under the Great Lakes Water Quality Agreement of 1978; establish a system-wide surveillance network; coordinate the activities of the Environmental Protection Agency with respect to the Great Lakes; to work with other Federal agencies to achieve the objectives of the Agreement.

The Program Office is to develop a five-year plan for reducing the amount of nutrients that enter into the Great Lakes and shall incorporate into that plan management programs for nonpoint sources of pollution developed pursuant to section 319 of this Act.

The Program Office is to conduct a five-year study of methods to remove toxic pollutants from the Great Lakes with emphasis on the removal of toxic pollutants from bottom sediments. Demonstration projects at Saginaw Bay, Michigan; Sheboygan Harbor, Wisconsin; Grand Calumet River, Indiana; Ashtabula River, Ohio; and Buffalo River, New York are to receive high priority under this program.

The annual budget submission of the Agency to the Congress is to include a line item for the Great Lakes Program Office. At the end of each fiscal year the Administrator is to submit to the Congress a comprehensive report on the achievements of the Program Office during the preceding fiscal year.

The conference substitute establishes a Great Lakes Research Office in the National Oceanic and Atmospheric Administration. The Research Office is to identify issues with respect to Great Lakes water quality on which research is needed and is to compile an inventory of on-going research on those questions. The Research Office is to develop a comprehensive data base for the Great Lakes System and may conduct research and monitoring activities.

For each fiscal year the Program Office and the Research Office are to prepare a joint research program. The head of each Federal department, agency or instrumentality which is engaged in programs or activities which may have an impact on the quality of the Great Lakes shall submit an annual report to the Administrator of the Environmental Protection Agency with respect to those activities and their effect on compliance with the Great Lakes Water Quality Agreement of 1978.

The conference substitute provides an authorization to the Administrator of the Environmental Protection Agency of $11,000,000 for each of the fiscal years 1987 through 1991 to carry out the provisions of this section. Of the amounts appropriated, 40 percent is to be used by the Program Office to demonstrate the control and removal of toxic pollutants; 7 percent is to be used for nutrient monitoring; and 30 percent is to be transferred to the Research Office for its programs.

Mr. MITCHELL. As I understand the time situation, the vote will occur at 4 p.m. Senator DOLE has reserved to him the time between 3:45 and 4 p.m., the final 15 minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. MITCHELL. Therefore, that leaves approximately 2 minutes which I shall now use to sum up in behalf of the opponents of the substitute amendment.

Mr. President, this amendment in the nature of a substitute proposes to spend $12 billion over 8 years as opposed to the $18 billion over 9 years in the House bill now pending before us. The House bill was unanimously approved by the House and Senate last year prior to its unfortunate veto by the President.

The $18 billion is a small fraction of the total needs for sewage treatment and water pollution cleanup in this country. It is, itself, a compromise, a very substantial compromise.

Second, the administration's substitute would undermine the nonpoint pollution provisions of the bill, a substantive provision dealing with what the Reagan administration's own EPA says is over half of the remaining problem in terms of water pollution in this country.

Finally, on the principal issue of cost, the President says, "We cannot afford to clean up American waters." He says, "We have to cut the amount of money being spent here, even though it is less than what is needed, even though it is within the budget resolution."

Yet, at the very same time the President proposes a massive multibillion dollar increase in foreign aid. There are his priorities.

We cannot afford to clean up America's waters, but, he says, we can afford to increase by billions of dollars the amount of foreign aid the United States is doling out all over the world.

Indeed, the President proposes to spend in 1 year on foreign aid almost as much as the Congress proposes to spend in 9 years to keep American waters clean.

So, Mr. President, I say the Senate should reject this substitute and the Senate should vote overwhelmingly in favor of H.R. 1. I, along with my distinguished colleague, Senator CHAFEE, urge the President not to again veto this legislation but to sign it and move forward and claim victory, which the President is well entitled to do.

I thank the Chair.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CHAFEE. Mr. President, I ask unanimous consent that I may proceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I wish to make three quick points. First, the administration bill does not abide by the commitment that was made in 1981 that $2.4 billion be allocated for waste treatment facilities for clean water each year for 10 years.

Second, the administration bill does not provide for coverage for the nonpoint source pollution, as was mentioned by the distinguished Senator from Maine.

Finally, the administration bill does not provide for putting money in the revolving fund, which is so essential to getting this program on a sound footing.

I hope that the administration proposal will be rejected, that H.R. 1 will be approved unanimously, and that the President will sign it.

The PRESIDING OFFICER. Under the previous order, the minority leader is recognized.

Mr. DOLE. Mr. President, we are going to have a vote here in about 12 minutes. I know this matter has been before the Senate. I know there is a great deal of interest in not doing anything other than what we did last year. I supported the bill last year. The record is clear. Everybody that I know of is for clean water. Some are in this Chamber and some are not in the Chamber.

So that is really not the argument. I guess it is a question of fiscally responsible.

I would like to think that we could pass the substitute, that it would be signed by the President, and there would be another $12 billion, which would be an increase of $6 billion over the effort last year by the administration. It would send a rather strong signal.

I know there is not much time left, but I would hope that my colleagues have at least had the time to take a look at the two proposals, H.R. 1 and the so-called Dole substitute, and understand the reason for a Federal Clean Water Act in the first place. I think then the substitute comes out the winner.

Way back in 1972, the Congress addressed the serious need to help eliminate the backlog in constructing secondary wastewater treatment facilities. That backlog amounted to a need for $18 billion from the Federal Government, and the Federal Government met that need.

But then the Clean Water Act became just like every other well-intentioned program around here. It became immortal. We have now spent $47 billion on the program since 1972, and I am proposing we spend another $12 billion for a total of $59 billion on clean water.

As I view it, the question is not whether wastewater treatment plants must be built and operated; the question is, Who should pay for it?

Do not get me wrong. I like mayors. Some of my best friends are mayors. But if you ask the mayors if they want some free money, they are going to say, "Yes; we would rather have it from the Federal Government because we cannot afford to raise it locally."

But none of them have a $2 trillion debt. None of them pay $200 billion on interest on the debt as we did in the Federal Government last year.

It seems to me that Federal programs have become a narcotic. First the recipients want it. The next time around they need it. After that, recipients will tell you almost anything so they can still continue to receive everything that they want and more. Suddenly, instead of achieving our real policy goals, we simply keep worrying about the folks back home. That is the game. We all know it and the water bill is no different.

Maybe we have lost sight of our real goal, but it seems to me that $12 billion is a great deal of money. Maybe not when you look at our debt, maybe not when you look at some of the other programs like agriculture, defense, or whatever it might be.

But let me turn to one specific difference in the two proposals before us today, nonpoint source pollution.

H.R. 1 contains Federal land use planning, pure and simple. Proponents of the bill cry foul at the charge and argue that States have a choice whether to suffer this indignity.

Maybe they are right. This is worse than a straight Federal land use planning. It is Federal land use planning cleverly disguised in a bait and switch proposal.

What we are being asked to approve is a plan to dangle $400 million in front of the States. But once the States drink from this cup, they find it has been poisoned—poisoned with Federal controls.

The bill would give the EPA Administrator the authority to regulate development, plan highways, administer the farm bill, and run our Nation's forests, parks, and rangeland. If we would just add defense, and foreign policy, we would have an EPA Administrator with more power than a king.

Granting Federal land use planning has been attempted many times in the past, in well-intentioned but badly flawed proposals, to address a wide variety of ills. It has been wisely rejected in the past, and should be today.

STATES RIGHTS

The first 10 amendments to the Constitution, which comprise the treasured Bill of Rights, grant important freedoms to our citizens. The 10th amendment is as important as any other. It states:

> The powers not delegated to the United

> States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

I find nowhere in the Constitution the reservation of the right of the Federal Government to dictate the use of private land. Yet, proponents of H.R. 1 would have us establish a program that will result in developers and environmentalists from throughout the land beating on the doors of EPA to have projects approved or to have land protected.

I hope that in our rush to override the veto in an effort, I think very properly, to demonstrate to the American people that we are concerned about our Nation's water supply, that we are concerned about clean water, we would at least focus on where we get the money.

Congress has changed. I have congratulated my Democratic colleagues a number of times, because they are now in the majority. I assume that that majority may do pretty much what the Republican majority did with this bill; they are probably going to vote for it. I had hoped that perhaps there would be more of a focus and maybe an effort by my Democratic friends to find some way to also look at the Federal deficit while they look at the programs.

I know there has been a lot of work on this particular measure. It has been bipartisan. There have been stars on both sides of the aisle in both the House and the Senate who have worked and worked and they do not want anything to happen to this bill because they feel it might fall apart, whether it be in conference or somewhere else. As I said, having voted for it, I can understand the support it has.

I am also concerned, as the President is concerned and the administration is properly concerned, about how we pay for it, maybe $12 billion or $18 billion does not make that much difference. Maybe the President will say it is not going to happen on his watch; he will be gone; 1988 will be behind him, let someone else worry about it. But I still would like an answer to my question of last week: If $18 billion is good, why not $25 billion, or $30 billion, or $40 billion? I think what we have tried to do in the substitute—maybe it is not perfect, maybe it ought to be revised, but we have tried at least to tone down a bit the amount of money spent. So the division here is over the amount of money the Federal Government should contribute until that time.

Will $12 billion do the job? I think at some time, as I have said, we need to address the deficit. I assume we will later on. We could start today. We could save the taxpayers, at least for a while, $6 billion.

There has also been the statement made that if we authorize only $12 billion—only $12 billion—instead of only $18 billion, we will force the cities to miss their 1988 compliance deadline required by the Clean Water Act. However, the effect of both H.R. 1 and the Dole substitute on the 1988 compliance deadline is the same—none.

Both bill provide sufficient funds for all cities to meet the compliance requirements of the act. EPA estimates this to be from $8 billion to $10 billion.

But, any city's ability to meet those requirements by 1988 depends on funds appropriated several years ago, not funds contained in these bills. Sewage treatment funds spend out very slowly, because treatment plants take years to design and build. Those that cannot now meet the 1988 deadline will not be helped by these bills.

There is absolutely no linkage between any mandate of the act and the availability of Federal funds. Like any other discharges of pollutants, cities are responsible for meeting enforceable provisions of the Clean Water Act, regardless of the availability of grants.

SIMILARITIES

It may seem to some that I am offering a dirty water act, instead of a Clean Water Act because we only go for $12 billion. Let me remind them that the two bills have more identical provisions than differences. Some of the identical items include:

Funding allotment formula, estuaries, stormwater permits, toxic chemicals, coal remining, civil penalties, administrative penalties, sewage sludge handling, Great Lakes programs, entry for inspection, marine sanitation devices, clean lakes, deadlines, permit terms, variances, enforcement, judicial review, ocean discharges, removal credits, and citizen suits.

So we do have a choice today, I think a choice between two good bills. That is how I would like to end my statement. Again I suggest, there are many on this floor and many on the committees who have a much more basic understanding, but I think we have a choice between two good bills. I think the differences are that mine is one that we can afford. Maybe not striking differences, but at least something that ought to be acknowledged. I believe that both will ensure clean water. We can start this Congress off on the right foot or shoot the budget in the foot. It seems to me that is the basic choice we have to make.

We have not had many votes this year. I know that this bill passed last year. I know it was unanimous. I know the President struggled for some time, or at least there was a lot of discussion at the White House whether or not it should have been vetoed. The President also signed Superfund legislation against the advice of some of the administration because of some of the taxes and the way it was paid for. So I think the impression is clear, at least should be clear, that Ronald Reagan has not resisted either clean water legislation or any other legislation that might affect the clean up of waste sites, that might affect the environment.

We have had a number of pieces of legislation that have passed Congress and been signed by the President. So I suggest that this is not just an arbitrary veto by the President. I think he understands fully the need to move on with the work. As I say, $47 billion since 1972. We are about to add another 12. If we cannot win on the 12, I assume there will be another $18 billion added. Then the President will be required to make a judgment again on whether to veto the bill.

I hope that in the demonstration of our efforts to underscore our concern for the fiscal problems we have, we could demonstrate early on in this Congress that we are sincere, that we are concerned, that we understand the problem; that we know clean water is important, that we would like to work with our city officials. We have respect for the mayors across the country, but we have a problem, too. Our problem is that the American taxpayers want us to stop spending money we do not have.

We do not have it. We will have to borrow it. We will be in here sometime this year trying to extend the debt ceiling so we can go out and borrow more money for more programs.

I say to my colleagues on both sides of the aisle. I think this one vote on the substitute may set the tone for the votes in the next several months. If we cannot restrain ourselves in talking about spending $12 billion, then we may not be able to turn down any spending program for the foreseeable future.

The PRESIDING OFFICER. Under the previous order, the hour of 4 o'clock having arrived, the Senate will now vote on amendment No. 1. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND] is absent due to illness.

The PRESIDING OFFICER (Mr. BREAUX). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 17, nays 82, as follows:

[Rollcall Vote No. 3 Leg.]

YEAS—17

Armstrong
Cochran
Dole
Exon
Garn
Gramm
Hatch
Hecht
Heflin
Helms
Kassebaum
McClure
Nickles
Simpson
Symms
Thurmond
Wallop

NAYS—82

Adams
Baucus
Bentsen
Biden
Bingaman
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Domenici
Durenberger
Evans
Ford
Fowler
Glenn
Gore
Graham
Grassley
Harkin
Hatfield
Heinz
Hollings
Humphrey
Inouye
Johnston
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Stafford
Stennis
Stevens
Trible
Warner
Weicker
Wilson
Wirth
Zorinsky

NOT VOTING—1

Bond

So the amendment (No. 1) was rejected.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BURDICK. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the third reading of the bill.

The bill was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. Under the previous order, the Senate will now have a rollcall vote on adoption of H.R. 1.

The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON announced that the Senator from Missouri [Mr. BOND] is absent due to illness.

I further announce that, if present and voting, the Senator from Missouri [Mr. BOND] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 6, as follows:

[Rollcall Vote No. 4 Leg.]

YEAS—93

Adams
Baucus
Bentsen
Biden
Bingaman
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Gore
Graham
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Hollings
Humphrey
Inouye
Johnston
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Thurmond
Trible
Warner
Weicker
Wilson
Wirth
Zorinsky

NAYS—6

Armstrong
Gramm
Helms
Nickles
Symms
Wallop

NOT VOTING—1

Bond

So the bill (H.R. 1) was passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BURDICK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CORRECTION TO THE ENROLLMENT OF H.R. 1

The PRESIDING OFFICER. Under the previous order, the Senate will now turn to the consideration of a concurrent resolution containing the substance as shown in House Concurrent Resolution 24, which the clerk will now report.

The bill clerk read as follows:

A concurrent resolution (H. Con. Res. 24) to make a correction, relating to phosphate fertilizer effluent limitation, in the enrollment of the bill H.R. 1.

The Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. Time for debate on this concurrent resolution is limited to 20 minutes, to be equally divided between the Senator from Maine, Mr. MITCHELL, and the Senator from Rhode Island, Mr. CHAFEE.

The Senator from Maine is recognized.

Mr. MITCHELL. Mr. President, I rise in support of the resolution to clarify the Water Quality Act.

This resolution will clarify and correct section 306(c) of the Water Quality Act relating to several fertilizer facilities in Louisiana.

I want to commend the Senator from Louisiana, Senator BREAUX, for his determined efforts to address this question.

This provision has resulted in some public concern and I believe it is important that we pass this resolution to put those concerns to rest.

The resolution directs the Administrator to issue "best professional judgment" permits to specified facilities under the authority of section 402(a)(1)(B) of the act. Such an action would follow action by the Administrator to revise the applicability of the effluent limitation established under section 301(b) of the act as it applies to these facilities.

Concern had been expressed that the provision in the Water Quality Act would require that a permit be issued for the discharge of gypsum into navigable waters. The resolution before us clarifies that no such requirement is intended.

The resolution will not change the standards or procedures used by the Administrator, or decrease the discretion of the Administrator, in issuing permits under section 402(a)(1)(B) of the act.

Further, the resolution does not in any way compel the State of Louisiana to concur in the issuance of such permits. The State retains its authority to deny or condition certification under section 401 of the act for such permits. The Federal permit lacks force or effect in the absence of State certification and concurrence.

In conclusion, Mr. President, I am pleased to have the opportunity to clarify that it is not our intent to in any way encourage or sanction the issuance of permits by EPA which would provide for the discharge of gypsum waste to waters.

Thank you, Mr. President.

Mr. President, I yield 5 minutes to the distinguished junior Senator from Louisiana, Mr. BREAUX.

The PRESIDING OFFICER (Mr. HEFLIN). The Senator from Louisiana is recognized.

Mr. BREAUX. I thank the Chair.

Mr. President, the resolution that we are now considering is identical to a resolution that has been passed previously by the House. This resolution is intended to correct and clarify a section of the Clean Water Act, section 306(c) of H.R. 1. This provision, which was also passed in the bills that were adopted last year, affected four fertilizer plants located solely in the State of Louisiana. The corrected language that is contained in this concurrent resolution merely clarifies that any permits that would be issued by the EPA administrator would not necessarily require the dumping of gypsum into the Mississippi River under any permit that would be issued.

In addition, it does not affect the authority of the State, which is contained in current law, allowing them to override any action on the part of EPA, nor does it in any way change the standards by which these permits must be considered. The best professional judgment is still the standard that has to be used and it does not, in addition, alter the right of any party to challenge the permits using established administrative and judicial appeal.

I know my senior Senator from Louisiana has worked hard with this Senator and other Members of the House to get this clarifying language contained in the legislation. I can report to our Senate colleagues that environmental groups, as well as the industries involved, as well as the State have signed off on this language. It merely clarifies the intent which would allow for these permits to be disposed of but not to subtract the standard by which they have to be judged in any manner.

The PRESIDING OFFICER. Who yields his time?

Mr. MITCHELL. Mr. President, I yield 2 minutes to the senior Senator from Louisiana.

The PRESIDING OFFICER. The senior Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, I am delighted to join with my colleague in sponsoring this amendment. It is rare, Mr. President, when you can get a matter of such controversy and such strong feeling as we had on this amendment initially and resolve it so successfully and with such complete harmony. But that has been done on this amendment, Mr. President.

This amendment is signed on to by the State of Louisiana, by the city of New Orleans, by the Sewage and Water Board, by the Environmental Protection Agency, by environmental groups and by everybody else that I know anything about, because it serves the purposes of keeping a clean environment.

It maintains the authority of the State to veto permits. It provides for the best professional judgment standard which is the standard that ought to be applied in the question of what should be done with gypsum, the waste, the discharge into the river, as well as to the storage on the bank.

So, Mr. President, it is a very happy circumstance that everyone can unite in doing the right thing for both the environment and I might add to put out some very hot political fires at the same time.

So I congratulate all who are involved with this, particularly my colleague, and our colleagues in the House. I am glad to be part of it.

(Mr. BREAUX assumed the chair.)

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I have reviewed the concurrent resolution. There is no objection to it on this side of the aisle.

Mr. President, I yield back the balance of my time.

The PRESIDING OFFICER. Does the Senator from Maine yield back the remaining amount of his time?

Mr. MITCHELL. Mr. President, I yield back the balance of my time. I know of no opposition to this concurrent resolution nor has there been any request for a rollcall vote. I, therefore, move the adoption of the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Maine.

The motion was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

HOUSE DEBATE ON H.R. 1

January 8, 1987
(Congressional Record, vol. 133, daily ed., H161-H216)

PROVIDING FOR CONSIDERATION OF H.R. 1, WATER QUALITY ACT OF 1987

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 27 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 27

Resolved, That upon the adoption of this resolution it shall be in order to consider the bill (H.R. 1) to amend the Federal Water Pollution Control Act to provide for the renewal of the quality of the Nation's waters, and for other purposes, in the House, debate on the bill shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, and the previous question shall be considered as ordered on the bill to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Massachusetts [Mr. Moakley] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Mississippi [Mr. Lott], pending which I yield myself such time as I may use.

(Mr. MOAKLEY asked and was given permission to revise and extend his remarks.)

Mr. MOAKLEY. Mr. Speaker, House Resolution 27 is the rule providing for the consideration of the bill H.R. 1, the Water Quality Act of 1987.

The rule provides for the bill to be considered in the House. The resolution further provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation.

In addition, Mr. Speaker, the rule provides for one motion to recommit.

Mr. Speaker, H.R. 1, the Water Quality Act of 1987, is virtually identical to the conference report, S. 1128 that was adopted in the 99th Congress by votes of 408 to 0 and 96 to 0 in the House and Senate respectively. The conference report was then pocket vetoed by the President on November 6, and since the 99th Congress had adjourned at the time of the veto, there was no opportunity to override the veto.

Mr. Speaker, H.R. 1 would authorize over $18 billion of Federal funds for fiscal years 1986 through 1994, these funds would assist U.S. cities across the Nation in the construction of wastewater treatment plants. Included in the bill is a new State Revolving Loan Program that would provide a transition from Federal to State funding for the construction of wastewater treatment plants. This would allow the Federal Government to eventually turn over the responsibility of funding for the treatment plants to State and local governments.

The bill would also establish a new program for the control of nonpoint source pollution. This kind of pollution is the result of runoff from streets, parking lots, and farmlands. These kinds of pollution, Mr. Speaker, account for almost half of the water pollution in some areas. H.R. 1 would authorize $400 million for 4 years which would allow States to develop and create programs to monitor and control nonpoint source pollution.

Mr. Speaker, other major provisions of the bill include the establishment of a program that would identify toxic hot spots. These are waters that do not meet water quality standards because of toxic pollutants. This also increases civil and criminal penalties for violations of the Clean Water Act, and provides the EPA to assess administrative civil penalties. Also the bill establishes a program to monitor and control the pollution in the Great Lakes, directs the EPA to develop plans for the protection of estuaries, and extends the program to study and restore the water quality of lakes across the country.

Mr. Speaker, I support the rule and the bill, I urge all my colleagues to vote for House Resolution 27 and to pass H.R. 1, the Water Quality Act of 1987, so we can continue to protect our lakes and rivers from untreated domestic waste.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

(Mr. LOTT asked and was given permission to revise and extend his remarks.)

Mr. LOTT. Mr. Speaker, this is the first major piece of legislation that will be going through the Congress this year, and I think, as it should be. I think that the American people and the Congress have already expressed themselves in saying that we want strong clean water legislation. In order to clean up the water in this country, it will be costly, and it will take time. This legislation would do that. It provides money—lots of money, probably more money than we should provide at this time—but we understand that there is a need for a significant amount of money to do the job that is necessary over the next 8 years.

We all know the history on this legislation. It was passed overwhelmingly by both bodies last year. It did not receive the President's signature, and that is why we are back here.

There are some problems that I have with this rule in particular. First, it is my understanding that the Public Works and Transportation Committee has not met to consider this legislation. So, a bill has not been reported.

I understand that we need to move this measure, and move it quickly, because a lot of communities need to go forward with this funding. But I think that we should be aware that this is being done in a somewhat unorthodox and at the very least, expedited manner.

Second, it is closed tight as a drum, and the next bill that we are going to have on the floor, the highway bill, is going to be a closed rule, tight as a drum. Now, are we all Members, or not? Should we have some minimum opportunity to offer substitutes or alternatives or amendments, or not, no matter what the circumstances are?

My response is "Absolutely." We were all elected in our own right, and we should not be told by the leadership of the Rules Committee, "You can offer no amendment whatsoever, not even a substitute." I object to that.

Also, an impassioned plea was made in a bipartisan way by our colleagues from Louisiana with regard to one section in this bill which allows for substances to be dumped into the Mississippi River that could cause very serious problems. The State of Louisiana, as I understand it, statistics would show has the highest cancer rate of any State in the Nation. They came in, Republican and Democrat, and said, "Give us an opportunity to knock this particular section out or to offer an amendment, or to do something, for Heaven's sake."

□ 1210

And the Rules Committee, on a tie vote, a bipartisan vote, 4 to 4 said "No, we are not going to give you that opportunity, State of Louisiana."

Now I have always kind of had the attitude around here that when my colleagues, Democrat or Republican, have something that we are bordering on that affects their district, I go with the Member. I also thought it was a tradition around here that when we have a State delegation of both parties that comes and says, "Give us a chance" on something that could mean life or death to us, to be heard; and we say no? I do not understand that. I do not think that is fair.

So I object to this rule; I support the legislation; I do not think it is a way to start this year off, and I would urge my colleagues at the proper time to vote against the previous question, after which if we defeat the previous question the membership will have an opportunity for the Louisiana delegation to offer an amendment to knock out the section they are concerned about; and so a substitute will at least be in order.

Now, I am not going to press the point on a vote on the rule, because I think the key point is the previous question. Give us a chance to make at least a substitute in order, and at least give the Louisiana delegation a chance to make the case. We do not have to accept it; we can reject it, but give them a chance.

So I will ask for a vote on the previous question, and I ask my colleagues to vote against it. I do not intend to ask for one on the rule; some other Member may. I do support the legislation and the concept, and we will have plenty of opportunity to talk about that substance after we vote on the rule.

Mr. GEKAS. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman.

Mr GEKAS. Mr. Speaker, what I wanted to comment on in conjunction with what the gentleman has said is that the last time this bill came up and it received an overwhelming vote, it was based on an open rule that preceded it.

There seems to be no reason why we cannot have the same privilege now, knowing that the outcome is going to be favorable anyway; why not give us the opportunity to modify where and when necessary?

Mr. LOTT. Mr. Speaker, I agree with the gentleman. I do not have an amendment and I do not have a substitute that I would offer; but I do not think we ought to start this year off, this historic 100th Congress, with our first bill being shut down tight as a drum.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, the gentleman has so very eloquently pointed out the difficulties the Louisisana delegation has with this bill. In fact, we tried to amend it.

We had a problem of which apparently none of the members of the Louisiana delegation were aware when this bill passed the House the first time. Somehow, in the final hours of the final conference during the completion of this bill back in the 99th Congress, a mysterious little provision sneaked into this bill.

It was put in there, and unfortunately not many of us in Louisiana, if any of us, knew that it was there. What that little provision did was to effectively, Mr. Speaker, allow and permit the EPA to grant permits to four specific plants on the Mississippi River to discharge gypsum into the river, whether or not that gypsum may be harmful to the consumers of the water in southeast Louisiana.

Now, that whole issue is a matter of substantial debate. The gypsum might be harmful or it might not be. There are ecologists, and toxicologists, and other experts on both sides, some of whom say that it is harmful, and some of whom say that it is not.

But the issue is not settled, and it seems to me and perhaps to other members of the delegation that until that issue is settled, it is premature to run through what my mayor of New Orleans calls the Clean Dirty Water Act; clean water for the rest of the country, and dirty for the city of New Orleans and the surrounding suburbs.

That is exactly what has happened. We have pushed through, in the Clean Water Act, a provision which by virtue of this rule we cannot amend, which mandates the granting of permits to dump this stuff into the river.

Now, the Louisiana delegation and the very able chairman of the Water Resource Subcommittee, BOB ROE, with whom I have had the great pleasure of serving over the last 9½ years I have served in Congress, have worked together over the night to see if we could come together and confect a compromise which would mitigate the onerous provisions of the existing language of section 306(c), the provision to which I have objection.

Mr. LOTT. Mr. Speaker, to accommodate the gentleman, I would be glad to yield him a specified amount of time so he can proceed as he sees fit.

At this point, I would be glad to yield the gentleman another 7 minutes.

Mr. LIVINGSTON. Mr. Speaker, I thank the gentleman for yielding the time to me.

Mr. Speaker, the Louisiana delegation has sat down with representatives of the EPA, with representatives of the environmental community, with representatives of industry, with representatives of the Sewerage and Water Board, which has had very strenuous objections to the existing provision, section 306(c), in the law.

With the help of the able chairman and the subcommittee chairman, ARLAN STANGELAND, and staff, we have confected what appears to be a compromise which would be introduced to amend this bill later on.

Presumably that amendment will be accepted by the other body as well. We do not know that for certain. If in fact they do not adopt the same procedure that we do, and if they do not adopt our amendment, we will lose our rights to amend this provision. I have to tell the Speaker and Members of this body that I am very, very concerned about that; but I hope that if all of the Members in this body prevail on the Members of the other body to accept this provision, they will probably adopt it. If so, the provision, 306(c), will be amended and it will go to the President to accommodate our concerns.

Now basically section 306(c), as it is currently written is totally unacceptable. I have filed a bill yesterday which would delete the provision altogether; and that is my first preference. I would like to see this current provision just knocked out or deleted, because the quality of the water and health and safety of the people that drink the water is southeast Louisiana is directly impacted by this provision; and that's not my opinion, but the opinion of the attorneys and the ecological experts of the Sewage and Water Board whose responsibility it is to protect the quality of water in southeast Louisiana.

As I said, I would like to delete the provision altogether. Politically, that does not seem to be possible; I do not think that I could get that through this House much less the other body.

Mr. LOTT. Mr. Speaker, will the gentleman yield?

Mr. LIVINGSTON. I yield to the gentleman.

Mr. LOTT. Have you noted the fact that the administration bill that was introduced did delete this particular segment?

Mr. LIVINGSTON. As a matter of fact, I thank the gentleman for reminding me. We did prevail on the Administrator of EPA and on the administration, and President Reagan, to delete this provision in the administration bill.

Whether or not the administration bill prevails in this House, this provision, section 306(c), is knocked out of it, and we do not have to worry about it; but it is not knocked out of the bill that is most likely to pass this House and which will probably pass the Senate.

So if we cannot politically knock out section 306(c) the next best thing is to amend it; and that's what we seek to do. An amendment will be offered later on by the appropriate Members of Congress.

Mr. ROEMER. Mr. Speaker, will the gentleman yield?

Mr. LIVINGSTON. I yield to the gentleman.

Mr. ROEMER. Mr. Speaker, first of all I want to thank the gentleman from Louisiana [Mr. LIVINGSTON] for his leadership; and I know it is a tough problem.

Our problem, Mr. Speaker, is that Louisiana enjoys—that is the wrong word—a lower life expectancy as a population than almost any State in America. Now that is a combination of a lot of things; it is about 3 years less than the national average.

One of the contributing factors is lack of clean air and water. We are a resource-rich State; and often we have abused our environment. Louisiana would like to change that, and the gentleman from Louisiana is trying to give us a chance to improve the quality of our air and our water; and I agree with the gentleman.

I like the bill; I do not have any problem with the rule, except one provision: the rule does not allow us to take this good bill and delete an onerous provision.

Mr. LIVINGSTON. That is true.

Mr. ROEMER. Given that fact, we are almost forced to vote against the previous question or to vote against the rule; and we do not want to do that.

What we want is a chance to make a good bill better, to take this provision out so that we can clean up our air and water. That is what we want, and I thank the gentleman from Louisiana [Mr. Livingston] for trying to give us a chance.

Mr. LIVINGSTON. Mr. Speaker, I thank the gentleman for clarifying the situation.

In fact, this bill as written, makes the quality of our water in southeast Louisiana worse. What we're trying to do is not necessarily improve that quality, but simply keep it as good as it is today, and we can do that with this amendment.

The amendment that has been confected by the majority and minority staff and by members on all sides and on the subcommittee, actually retains the rights of all parties as they primarily existed before this issue ever came up.

□ 1220

Before this issue was incorporated in the Clean Water Act of 1986, the whole process was going along in a normal rhythm. It may have been a little bit slow, but at least all parties were being protected, all sides had their opportunities to express their points of view, and nobody was going to be unduly jeopardized. With the passage of this provision, if it were unamended, frankly the possibility of the Sewerage and Water Board of New Orleans and the environmentalists to contest any undue or unjust permits would be adversely affected.

So what we are doing it putting everybody back close to the position in which they effectively found themselves in before all of this controversy arose.

The companies will be able to apply for the permits, the permits may or may not be granted by EPA and by the Louisiana Department of Environmental Quality, those permits may or may not allow the dumping of gypsum, and there must be the determination as to whether or not the dumping of that gypsum is detrimental to the quality of the water or to the people of southeast Louisiana.

If in fact none of those permits are granted, that is fine, and the companies will have to do something else with their gypsum. If it is deemed to be unharmful, that is fine, too, and it goes into the river without jeopardizing the community. But at least the processes will have been adhered to, and the environmental community, plus the Sewerage and Water Board, will have the right to judicially determine whether or not any permits that might be issued are in fact valid or legal. Thus, all rights are preserved under this compromise.

Mr. ROEMER. Mr. Speaker, will the gentleman yield?

Mr. LIVINGSTON. I yield to the gentleman from Louisiana.

Mr. ROEMER. I thank the gentleman for yielding, and I thank the gentleman for his explanation. To make it clear from where I stand, the gentleman makes the point that the provision in the bill that is burdensome and onerous is a provision that allows EPA standards to be abrogated. That provision should not be in the bill. No. 2, the gentleman suggests there is a way around that, to allow the process to judge whether or not the gypsum is in fact harmful. I support the position of the gentleman, and I hope we win.

Mr. LIVINGSTON. I would only clarify for the Record: I am against this rule. This rule does prevent me from introducing my amendment to delete the provision altogether. I intend to vote against the rule, or at the very least, as the gentleman from Mississippi pointed out, to vote against the motion on the previous question. However, should I lose, and I do not anticipate that, and I hope that I do not, but should I lose on that, I intend to support the Clean Water Act. But I also intend to support this amendment, and I would ask all the Members of the House to support this amendment to section 306(c) as it will be proposed later on, and as it has been agreed to by all the members of the Louisiana delegation, all the members of the environmental community, the Sewerage and Water Board, their attorneys and the representatives of industry as well.

I thank the gentleman for yielding me the time.

Mr. LOTT. Mr. Speaker, I would like to inquire, does the gentleman on this side have requests for time he would like to take?

Mr. MOAKLEY. I yield myself such time as I may consume.

Mr. Speaker, I just want to let the membership know that the members of the Rules Committee were not callous in this matter. We had a long discussion with the members of the Committee on Public Works, the able chairman of the subcommittee, Mr. Roe, who indicated that he thought there would be a solution that he could work on. We have just heard the gentleman from Louisiana talk about the freestanding amendment that will be offered at the same time which I intend to vote for also when it comes up.

Mr. Speaker, I yield 13 minutes to the gentleman from New Jersey [Mr. Roe], chairman of the subcommittee.

(Mr. ROE asked and was given permission to revise and extend his remarks.)

Mr. ROE. Mr. Speaker, I do want to pay my high regards to, and appreciate the hard work of, the Rules Committee and the work they have done on this bill, over the years, particularly Joe Moakley for the work he is doing.

If I may be indulged by the House to give a little rundown on this issue: At the outset I want to compliment the gentleman from Louisiana and all the Representatives from Louisiana for the position they have taken on this particular matter. I think it is out of perspective, however, in some of the understandings which have now to be corrected, which we are now trying to do.

After the presentation was made at the Rules Committee yesterday, and with the indulgence of the Rules Committee as pointed out by Representative Moakley, we went back and we reviewed this entire matter.

We have gone back, let me make this point to those of our Members who are here and those who are listening on the TV who will be here to vote, it is essentially important that this House votes overwhelmingly 100 percent for this rule, because the rule is a good rule.

Now, the Public Works Committee has gone back, and the help we received from the Louisiana delegation, we met almost all night, and we have worked with the environmental community, we have worked with EPA, we have worked with the officials down in Louisiana, and we have come up with an accord to solve the problem.

My father taught me one thing in life, that half of nothing is nothing, and if we just go and argue it out, Louisiana will lose, and the House is going to pass this law or this rule simply because what it does is it brings into focus the Clean Water Act of the country. It is critical to the country.

Now, this House voted 408, and the other body, now you can say the Senate, voted 96 in favor. It is unanimous. Now, the problem that Louisiana has brought up is legitimate. They require the help and the support of the House. After all, if this happened in New Jersey or any other State, we would be back fighting for Texas or Louisiana or anybody else. Now, the problem is how do we solve the problem in a direct way and achieve the goals for Louisiana that it is attempting to achieve. Bob Livingston set that out very clearly, as has Lindy Boggs and other members of the delegation.

The solution we have come up with is as follows: We have tried to solve the problem with language in the report that we put into the Record yesterday. It does not have the full effect of law. However, we spelled out specifically what the EPA could not do in abrogating the rights of the State of Louisiana, and in effect Louisiana has a veto power in any case.

Now, the people from Louisiana have expressed concern about that because it is not part of the bill and therefore they could be in a dilatory position as far as the legal approach may be concerned.

Now therefore what is our recommendation? Our recommendation: I have joined with the entire Louisiana delegation in drafting up a freestanding resolution that would come back and put into force of law the items that we have agreed to that we wanted to get in there, together with the point of view of repealing the one issue that is in the bill having to do with the national guidelines. The national guidelines will go back into focus. That is a critical point to the State of Louisiana. We support that strongly. I would ask every Member of the House to support that situation. So Mrs. Boggs and the delegation will be putting into the hopper right now, I believe it has already been posted, a concurrent resolution that would achieve those goals.

Mr. ROEMER. Mr. Speaker, will the gentleman yieldl?

Mr. ROE. I yield to the gentleman from Louisiana.

Mr. ROEMER. First of all, I want to say that I appreciate what the gentleman has done for this House for years, and that is tell it just like it is.

No. 2, I want to thank the gentleman for working with Mrs. Boggs and Bob Livingston and other members of the Louisiana delegation to make this wrong right again.

No. 3, I want to ask a specific question if the gentleman will let me: Will we have a vote today on the provision that makes the report language law and deletes the provision of the bill that this House does not like, or would that come at a later time?

Mr. ROE. In direct answer to the gentleman, there will not be a vote on it today. It is my understanding from the leadership that this matter will be considered on the 20th of January, when we return under the Suspension Calendar.

Mr. ROEMER. On the Suspension Calendar.

Mr. ROE. However, it is important to add that what we are voting on today, the intent of Congress is in the language—what we vote on the intent of Congress is in there. Simply, this resolution will put it into force of law.

Mr. ROEMER. I thank the gentleman.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. ROE. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. I thank the gentleman for yielding.

Mr. Speaker, I appreciate the gentleman telling us when this thing might come up. I am a little bit concerned because of the delays. I was wondering if the gentleman would have any objection to us asking unanimous consent at this time.

Knowing that this matter may be encumbered by the current rule and other provisions and restrictions that are encumbered upon the House over the next few weeks, I was wondering if the gentleman would have any objections to a unanimous-consent request that the provision in the hands of Mrs. Boggs at this time be substituted for the provision of section 306(c)? Would the gentleman consider this?

Mr. ROE. It is not part of the legislation, as the gentleman knows. If the gentleman wants to make that decision, that is up to him.

Mr. LIVINGSTON. I appreciate that.

At this time, Mr. Speaker, I ask unanimous consent that the provision about to be placed before the desk in the hands of Mrs. Boggs be made a part.

Mr. MOAKLEY. Mr. Speaker, the gentleman speaking was not yielded time for that purpose.

The SPEAKER pro tempore (Mr. Ford of Tennessee). The gentleman [Mr. Moakley] does not yield for that purpose.

Mrs. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. ROE. I yield, of course, to the gentlewoman from Louisiana.

Mrs. BOGGS. I thank the gentleman for yielding.

First, I would like very much to thank the Rules Committee for their consideration of the Louisiana position yesterday, and I would like very much to thank, in the name of the entire Louisiana delegation, the gentleman in the well Mr. Roe, and all the members of his committee and the staff members of the committee and all the other persons involved, in trying to work out what is a very reasonable solution to a very difficult problem, which is Louisiana specific.

I would like very much to thank the members of the Louisiana delegation for recognizing the hard work and the exemplary fashion in which the gentleman in the well and his committee, both sides of the aisle, have worked on this problem and have come up with a solution that can indeed relieve the difficulties which the citizens of Louisiana, particularly those who live in the districts of Mr. Livingston, Mr. Tauzin, and myself, are encountering with the provision that is included in the bill.

So I would hope that we would abide by the decision of the gentleman in the well, Mr. Roe. We want to thank him for his cooperation and hard work and his recognition of the serious problem that the people of our State and particularly our districts are confronted with, a very service environmental problem that they see as a part of their daily life.

We feel that this is an expeditious manner in which to go forward with the bill as we have today. All of us in the Louisiana delegation applaud the Clean Water Act, and we certainly recognize the benefits that it brings to the entire Nation.

We wish to be in favor of the Clean Water Act, and we are very grateful to the gentleman in the well and all the others concerned for giving us an opportunity to be able to do so without impacting adversely upon the citizens of our area.

Mr. ROE. I thank the gentlewoman.

Mr. TAUZIN. Mr. Speaker, will the gentleman yield?

Mr. ROE. I yield to the gentleman from Louisiana.

Mr. TAUZIN. I thank the gentleman for yielding.

I, too, want to join with my colleagues in thanking the gentleman in the well in particular and in the Rules Committees for its consideration of our particular problem in Louisiana.

As the bill emerged last year and as it is presented this year, the language with reference to the plants in Louisiana gave us in Louisiana in two critical areas in interpreting the language. The first area was whether or not the language in any way mandated EPA or in any way congressionally approved the granting of permits to dump gypsum in the river.

Is it correct that the report language the gentleman has adopted to the bill clearly says that that is not so, that nowhere in that amendment is the EPA mandated or encouraged nor does Congress approve the granting of permits to dump gypsum?

Mr. ROE. The gentleman is totally correct.

Mr. TAUZIN. Second, the big concern was whether or not the amendment in the bill in any way affected

Louisiana's right to concur or fail to concur, in other words to veto, any grant of any permit that the EPA might issue or in any way obstructed the Louisiana Environmental Agency in modifying the permit that came out of EPA on this issue.

□ 1235

Mr. ROE. The gentleman is again correct. That is the intent.

Mr. TAUZIN. Finally, Mr. Speaker, it is my understanding from meetings this morning that the concurrent resolution that we are adopting not only contemplates, but it strikes from the bill the language dealing with the exemption from the EPA guidelines. Is that correct?

Mr. ROE. Mr. Speaker, the points that the gentleman has brought up are entirely correct. The purpose of the resolution is to put that into a force of law, as you know.

I think it is important, also, if I may add to the colloquy and the dialog right now, and maybe some of the members of the Louisiana delegation may want to do that further, is that on the basis of the resolution that has been sponsored bipartisanly and with the entire Louisiana delegation, I refer the followup communication from the Sierra Club, who strongly supports this resolution, which was one of our concerns yesterday in the dialog.

As I understand it, the delegation has spoken further to the Water Resources Board down in New Orleans and other officials in New Orleans, I believe on both sides, and they have also concurred. So those entities in Louisiana who are concerned about this overall piece of legislation are in accord with what we are attempting to achieve on this concurrent resolution.

Mr. TAUZIN. Mr. Speaker, if the gentleman will yield further, at the Committee on Rules yesterday, the gentleman in the well, the distinguished chairman of the subcommittee, also made a commitment to our delegation which I wanted to reaffirm here on the floor of the House, and that is that the committee would monitor the EPA's compliance with the provisions of this bill to ensure that the health and safety of the people who live in the parishes and counties affected in Louisiana would be taken into consideration in whatever permanent decisions were made in this matter. Is that also accurate?

Mr. ROE. The gentleman is correct, Mr. Speaker. I discussed that with the gentleman from New Jersey [Mr. Howard], the chariman of our full committee, and he is in complete accord.

Mr. ROEMER. Mr. Speaker, will the gentleman yield?

Mr. ROE. I yield to the gentleman from Louisiana.

Mr. ROEMER. Mr. Speaker, just to cut to the heart of the issue, if we could, for a second, our problem is that we want to tighten the bill, not loosen it. We support clean water; we support this bill, except for the one provision that our colleague has tried to delete.

That being understood, the danger is that we help pass this imperfect bill and do not get a chance to perfect it in regard to Louisiana's well-being.

I would like the gentleman to discuss that danger with us. I believe that the gentleman supports the concurrent resolution. In fact, the gentleman is a sponsor of the concurrent resolution. Am I correct?

Mr. ROE. The gentleman is correct.

Let me use the last minute I have left, with the indulgence of the Committee on Rules, for the benefit of the members of the delegation.

If any committee attempted to use all of its resources, from the chairman, the distinguished gentleman from New Jersey [Mr. Howard] on down, to support Louisiana, a State, it is being done now. I am asking the full House to support this issue because it is the right thing to do.

But we also have to say to the good folks in Louisiana that this language is even better than what we thought originally because we put a 180-day limit on to. We are saying to EPA, you have had this since 1974. We are worried about our people being poisoned. Why do you not do something now? This is 1986.

We are saying the EPA has got to respond to Louisiana in the next 180 days. We are saying they have to act now, and if we do not act now, this situation that is affecting the drinking water supply of Louisiana is going to continue.

Mr. LOTT. Mr. Speaker, I yield to the gentleman from Louisiana [Mr. Livingston] for the purpose of a unanimous-consent request.

Mr. LIVINGSTON. Mr. Speaker, I appreciate the gentleman yielding to me.

Mr. Speaker, I have an amendment at the desk and I ask unanimous consent that that amendment be accepted in lieu of the current existing section 306(c).

Mr. MOAKLEY. Mr. Speaker, once again, the gentleman was not yielded to for that purpose.

The SPEAKER pro tempore (Mr. Ford of Tennessee). The gentleman from Massachusetts [Mr. Moakley] has not yielded for that purpose.

Mr. LOTT. Mr. Speaker, I yielded under my time.

Mr. MOAKLEY. Mr. Speaker, the gentleman from Mississippi [Mr. Lott] was not yielded to for that purpose, either.

The SPEAKER pro tempore. It is the Chair's opinion that only the gentleman from Massachusetts can yield for a unanimous-consent request to amend the rule.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from New Hampshire [Mr. Gregg].

Mr. GREGG. Mr. Speaker, basically I rise to try to determine where we are in this twilight zone of procedural activity here. It appears to me that we have a bill that came to us from a committee which has not met and another committee which is not constituted, the Committee on Merchant Marine and Fisheries.

It also appears to me that we have a bill which is a totally closed rule, under which the minority is going to be given basically no opportunity to address what is a clearly bipartisan concern, and that is the concern of Louisiana.

Those two factors being true, and since the unanimous-consent requests have unfortunately been turned down to try to straighten out this matter, I certainly hope that the Members on both sides will support the attempt by our side to defeat the previous question so that we can then bring up the issue that Louisiana has raised and raised so well and has made such a good case for.

Thus, I strongly support the motion which will be made by the Republican whip which will be to defeat the previous question and allow us to proceed on the issue of Louisiana concerns.

Mr. HAMMERSCHMIDT. Mr. Speaker, will the gentleman yield?

Mr. GREGG. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Speaker, I want to state that the members of the Committee on Public Works and Transportation, under whose jurisdiction this bill passed unanimously in the last Congress, as we all know, totally support the rule and support the bill.

I just wanted to get that on the record.

Mr. LOTT. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. Dannemeyer].

(Mr. DANNEMEYER asked and was given permission to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, one of the biggest issues that will be debated in the 100th Congress is accountability for the size of the national debt and for the annual deficit that we can see on the horizon for years to come.

The Speaker of this House previously has said, this is the Reagan deficit that we now have; the Reagan debt that we now have. It is on that point, and in opposition to this rule, that I want to speak today.

Late last year, I had a member of my staff prepare an analysis reflecting a comparison of the Reagan budget requests for the years 1982 through 1986, the full 5 years for which President Reagan is accountable, and contrast what Congress has done in response to those requests each year. What do you know? Over that 5-year span, Congress has appropriated a little less than the request for defense, a little less than the request for Social Security, a little less than the request for Medicare and a little less than the request for interest on the national debt. But would you believe that when it comes to the social programs, including this meritorious water project program, Congress, over the last 5 years, has appropriated $229 billion more than President Reagan has asked for.

This means that the entire level of Federal spending is roughly $100 billion on an annual basis higher than what it would be had Congress acceded to the leadership of this President in establishing spending priorities for the Government of the United States.

Congress is responsible for this fiscal mess. We in the House are; they in the other body are, but not the President of the United States. This President has made a reputable proposal today suggesting the level of spending for this project and most of us, and this Member from California does support it, should be not in excess of $12 billion.

The bill before us is $16 billion. What is the difference? I will tell you the difference; it is $4 billion. Every billion counts on the deficit.

We do not have an opportunity to even offer an amendment to give the House a chance to vote on the President's request for funding for this purpose. Why? Why do you not give us the chance? You run this shop. You tell us what we can do, when we can do it, where we can do it and how we can do it. Why do you produce a closed rule that precludes us from offering an amendment to reflect what the President of the United States says should be included in this budget process.

It is for this reason that I am in opposition to this rule.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. Walker].

☐ 1245

Mr. WALKER. Mr. Speaker, if the American people want to know by what process deficits are created, all they have to look at is the process we are proceeding by today. The process of this House today is one of those means by which we accumulate massive deficits.

We have before us a bill that was jointly referred to two committees.

Obviously it was jointly referred to two committees so that those committees could consider the legislation. The bill that is reported to the floor here today or that is discharged to the floor is reported out of the committee, one committee that never met, and it is reported out of another committee that does not even exist. One committee never met, the other committee does not exist, and yet we have the bill out on the floor.

What about this bill? Well, it is a bill vetoed by the President of the United States on the premise that it was too expensive. Now, we may or may not agree with the President, but at least we ought to consider his viewpoint someplace. It ought to either be considered in the committee or it ought to be considered on this floor. The fact is it was not considered in committee because the one committee never met and the other committee does not exist. It will not be considered on the floor because we have a closed rule and we cannot amend the process. Therefore, the views of the President of the United States about the expensive nature of this bill will never get considered today.

That is wrong. That is how deficits are created. I say to all of the Members who come to this floor and suggest that we are not a part of creating the deficits and that that is all the prerogative of the President that that is just plain nonsense. Today we are creating a deficit. We are doing it right here, and the Members who vote to create it and who vote for the previous question are in fact the big spenders and ought to be regarded by the American people in that way.

Mr. LOTT. Mr. Speaker, I have no further requests for time at this point. I would inquire, does the gentleman from Massachusetts [Mr. MOAKLEY] have additional requests?

Mr. MOAKLEY. I have one request, Mr. Speaker.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume. Let me just conclude and wrap this up and say just briefly that I think it is very wholesome that we have had this discussion on this rule, because the fact is, it is a totally closed rule. In addressing the concerns of the delegation from Louisiana, I think we have helped to make arrangements perhaps for a way to resolve those concerns.

However, I think we ought to defeat the previous question so we would have an opportunity to get an open rule so the Members will have an opportunity to offer this or any other amendment. So, I will request a vote on the previous question at the appropriate time.

Mr. Speaker, if the gentleman from Massachusetts [Mr. MOAKLEY] has only 1 remaining speaker, then I have no further requests for time.

Mr. MOAKLEY. Mr. Speaker, I just have one request for 2 minutes.

Mr. LOTT. Then, Mr. Speaker, I would yield back the balance of my time, based upon that commitment.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana [Mr. TAUZIN], who worked very hard with the Rules Committee to get the Louisiana point of view across.

Mr. TAUZIN. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, we are faced today in Louisiana with a decision to adopt a rule that will exclude our opportunity to amend the bill, which, of course, needs amendment. But the good news is that the chairman of the Committee on Public Works and Transportation and the chairman of the subcommittee involved here have both committed themselves to a measure of support which I think is extraordinary. Not only have the chairmen of those two committees committed themselves to help us with the concurrent resolution that will place into law, with the acceptance of this House, the provisions that Louisiana needs to guarantee our citizens the protections that we would like by an amendment to this bill, they have also agreed to monitor through hearings the process by which EPA will decide this issue in Louisiana on the dumping of gypsum.

Furthermore, the chairman of the subcommittee, the gentleman from New Jersey [Mr. ROE], made an excellent point in the Rules Committee yesterday, and that is that not to have a provision in this bill would be a mistake for Louisiana, because not having a provision in this bill dealing with the particularly controversial permits would probably mean that more of the plants, especially those that would be in bankruptcy like the Becker facility, would be dumping gypsum without permits. More plants like the Becker facility would be dumping if our chairmen and our committees were not committed to help Louisiana with a mandate from EPA to resolve it.

With that in mind, I will join with all the Members on the Democratic side in supporting the rule, because of the firm commitments that we have with the chairmen and those in leadership positions on the Rules Committee and the leadership of this House to pass this legislation at the appropriate time.

Mr. HOWARD. Mr. Speaker, will the gentleman yield?

Mr. TAUZIN. I am happy to yield to the chairman of the committee.

Mr. HOWARD. Mr. Speaker, I thank the gentleman for yielding, and I thank him and the other Members of the Louisiana delegation on both sides of the aisle for their cooperation.

I wish to assure those Members that the correcting legislation will be brought before this House during the first week when we come back and at the first possible moment.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. TAUZIN. I yield to my colleague, the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, I appreciate the gentleman's yielding, and I just want to point out that my own reason for voting against the rule and against the previous question is that if this deal falls through for any reason, whether it is by the action of the other body or not, then we will be back with the original language, and that concerns me. But I do appreciate the gentleman's point.

Mr. TAUZIN. Mr. Speaker, I urge my colleagues to adopt the rule.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, the gentleman from Mississippi [Mr. LOTT], I understand, has no further requests for time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. FORD of Tennessee). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeard to have it.

Mr. LIVINGSTON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 286, nays 124, not voting 22, as follows:

[Roll No. 7]

YEAS—286

Ackerman
Akaka
Alexander
Anderson
Andrews
Anthony
Applegate
Aspin
Atkins
AuCoin
Barnard
Bates
Beilenson
Bennett
Bentley
Bevill
Biaggi
Bilbray
Bliley
Boehlert
Boggs
Boland
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boxer
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clinger
Coelho
Coleman (TX)
Collins
Conyers
Cooper
Coughlin
Courter
Coyne
Crockett
Daniel
Darden
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Evans
Fascell
Fazio
Feighan
Fields
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallo
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hochbrueckner
Holloway
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McHugh
McKinney
McMillan (NC)
McMillen (MD)
Mfume
Mica
Miller (CA)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Packard
Panetta
Pashayan
Patterson
Pease
Penny
Pepper
Perkins
Pickett
Price (IL)
Price (NC)
Rahall
Rangel
Ray
Regula
Richardson
Rinaldo
Robinson
Rodino
Roe
Roemer
Rostenkowski
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Sawyer
Saxton
Scheuer
Schneider
Schroeder
Schulze
Schumer
Sharp
Shaw
Shuster
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Swift
Synar
Tallon
Tauzin
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wortley
Wyden
Yates
Yatron

NAYS—124

Archer
Armey
Badham
Baker
Ballenger
Bartlett
Barton
Bateman
Bereuter
Bilirakis
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton (IN)
Callahan
Chandler
Coats
Coble
Coleman (MO)
Combest
Craig
Crane
Dannemeyer
Daub
Davis (IL)
Davis (MI)
DeLay
DeWine
Dickinson
Dornan (CA)
Edwards (OK)
Emerson
Fawell
Fish
Gallegly
Gekas
Gingrich
Grandy
Gregg
Gunderson
Hansen
Hastert
Herger
Hiler
Hopkins
Houghton
Hunter
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Lewis (CA)
Lewis (FL)
Livingston
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (NY)
McCandless
McCollum
McEwen

McGrath
Meyers
Michel
Miller (OH)
Molinari
Moorhead
Morella
Morrison (WA)
Myers
Nielson
Oxley
Parris
Petri
Porter
Pursell
Ravenel
Rhodes
Ridge
Ritter
Roberts
Rogers
Roth
Saiki
Schaefer
Schuette
Sensenbrenner
Shumway
Skeen
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Stump
Sweeney
Swindall
Tauke
Taylor
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)

NOT VOTING—22

Annunzio
Berman
Boner (TN)
Burton (CA)
Cheney
Clay
Conte
Espy
Gephardt
Green
Hefley
Kasich
Kemp
Lent
Martin (IL)
Ortiz
Pickle
Quillen
Rose
Savage
Spence
Thomas (CA)

☐ 1305

Mr. DAVIS of Michigan changed his vote from "yea" to "nay."

Mrs. BENTLEY and Messrs. COURTER, ROWLAND of Connecticut, and CLINGER changed their votes from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. FORD of Tennessee). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

WATER QUALITY ACT OF 1987

Mr. HOWARD. Mr. Speaker, pursuant to House Resolution 27, I call up the bill (H.R. 1) to amend the Federal Water Pollution Control Act to provide for the renewal of the quality of the Nation's waters, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 27, the gentleman from New Jersey [Mr. HOWARD] will be recognized for 30 minutes and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HOWARD].

Mr. HOWARD. Mr. Speaker, I yield myself such time as I may consume.

(Mr. HOWARD asked and was given permission to revise and extend his remarks.)

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Mr. HOWARD. Mr. Speaker, the Committee on Public Works and Transportation is bringing the Water Quality Act of 1987 before the House under extraordinary circumstances but we believe there is no reason to delay. This bill is the same bill that most of you voted for on October 15, just 11 weeks ago. As the conference report, it was approved unanimously. We are asking Members to vote the same way now as they did on October 15. It was a good bill then. It deserved to be passed by Congress, as it was, and signed into law, which it was not. It deserves to be passed and made law now—whether or not it is signed by the President.

This is not a partisan attempt to embarrass anyone. This bill has been worked on for 4 years by the Subcommittee on Water Resources and the Committee on Public Works and Transportation. Our work was on a bipartisan basis. The same was true of our lengthy and difficult conference with the other body. In no case was anything decided on a partisan basis. Nobody can say this bill is exactly how it would have been written if one Member was working alone. But everybody, on both sides of the aisle, has supported it.

The vote on this bill in October was 408 to 0. There is no reason to change our vote. The situation has not changed, except possibly to become even more urgent for passage of this bill.

When I stood in this well 11 weeks ago during consideration of the conference report, I thanked the many Members who had worked on this bill over the 4-year period, thinking their efforts had concluded with a bill based on a series of compromises that would soon be law. Few of us realized that we would be back here so soon fighting the same battles on the same bill.

My colleague, the gentleman from New Jersey, BOB ROE, the new chairman of the Committee on Science, Space and Technology, was chairman of the Subcommittee on Water Resources when this bill was drafted. He deserves our thanks for the long hours he put in, as does the gentleman from Minnesota [Mr. STANGELAND], the ranking minority member on the subcommittee.

The issue on this bill is whether the Federal Government has a role in cleaning up the environment. It is not a question of exorbitant amounts of money. It is not a question of budget-busting. It is a question of whether the Federal Government will maintain its role in the Federal, State, and local partnership to clean up the Nation's water supplies.

The Sewage Treatment Plant Program is made for a multilevel partnership, and this bill provides the structure to do it. H.R. 1 authorizes $18 billion through fiscal year 1994 for the construction of treatment plants. That is an average of $2.25 billion a year for clean water. Nobody can say that the American public does not want to spend $2.25 billion a year for clean water.

We used to spend $5 billion a year and we used to provide 75 percent Federal funding, but we were told that those levels encouraged unnecessary projects that were rife with porkbarrel. Then we reduced the program to $2.4 billion a year at 55 percent Federal. Now we are being told that level is too much.

This bill reflects those objects. It phases the grant program, which many of us believe has been successful, into a loan program. There is no authorization for grants after fiscal year 1990. Only loans are authorized after 1990. Of the $18 billion that is supposedly budget busting, $8 billion is in the form of loans.

We were told that grants are the traditional approach that must be changed. Loans, we were told, would reflect the new fiscal reality of the 1980's, which is a time of limited Government resources. Revolving loan funds are the wave of the future. This bill moves toward a construction loan program and mandates States to establish revolving loan funds. Yet we are told that the bill is a budget buster.

My conclusion is that the opposition to this bill is based on the premise that there should be no Federal role in protecting the environment. We have cut the funding to a minimum and provided all the innovative procedures and local participation that was requested, but we are still told it is too much.

All this discussion of $2.25 billion a year should be considered against the backdrop of the EPA's 1984 needs survey. In that document, the administration told Congress that $108 billion will be needed by the year 2000 for sewage plant construction. The administration has told us that six times more money is necessary than the amount that was vetoed just 2 months ago.

It is a shortsighted and self-defeating policy to ignore the $108 billion that the administration has documented to us. This is not a partisan issue—it is not partisan to want clean water. It is not partisan to vote for spending a modest amount on sewage treatment plants. That is why this bill was approved with bipartisan support in October.

The grants and loans for sewage treatment plants are not the only issue. H.R. 1 has many other good programs that should be law. It authorizes funds for nonpoint pollution, for pollution in estuaries, for clean lakes. It creates a program to clean up toxic hot spots and sets new deadlines for industry to comply with the pollution-control requirements of the Clean Water Act.

I urge my colleagues to vote for the environment and vote for clean water by suporting this bill. H.R. 1 is not a budget buster. The President made a mistake in vetoing the bill, and it is up to us to give him a second chance.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as we approach a second vote on what is essentially the same piece of legislation we approved in mid-October, I believe that we should do so with a full understanding of the history of what has taken place since the enactment of the Federal Water Pollution Control Act Amendments of 1972. This will place in proper perspective the reasoning behind what is certain to be a strong vote by this body in support of the legislation before us, as well as the rationale for the President's continued opposition.

The history of clean water legislation actually reflects very highly on both Congress and the administration. It is unfortunate that we must differ at this juncture and on this particular bill. Yet, we in Congress simply must draw the line somewhere if we expect to reach our goal of clean water for all Americans.

As one of only four sitting members of the Public Works and Transportation Committee—and the only Republican member—who were here in 1972, I can speak from experience both as to what the 1987 Water Quality Act can and cannot be expected to accomplish. In a sense, it presents us with one of those "good news—bad news" scenarios.

The good news is that the bill's funding levels are both environmentally responsive and fiscally responsible. While less than in previous House bills, funding levels are considerably higher than what the administration is recommending.

The bad news is that there still won't be enough money to meet the demand for wastewater treatment. If any Members in this Chamber thinks that a vote for this bill and perhaps a vote to override will solve all of our water pollution problems, then you had better give that notion further thought. To be sure, the heavy hand of Federal enforcement will be out there, but funding for all of the deserving wastewater treatment projects will not be. Members of this and the other body can expect to hear the anguished cries from communities for help in cleaning up their polluted water.

Consider if you will the 1984 needs survey, a joint effort by the Environmental Protection Agency and the States, which estimates that a total investment of $101.7 billion will be required to construct municipal water pollution control facilities eligible for Federal financial assistance under the Clean Water Act through the year 2000.

For those here today who need convincing that we face the prospect of making an enormous financial investment in order to meet our national infrastructure needs, they now have an important look into the very substantial projected needs of just one component of that infrastructure.

To its credit, this administration has championed and been responsible for important reforms in the Clean Water Act. President Reagan has a remarkable record in cutting back on wasteful or unneeded Federal programs, and I share his commitment in that regard. He has also moved forthrightly to place more responsibility for Government programs in the hands of State and local government and the private sector. As it has done in so many other programs, this administration has lowered the Federal exposure in the Clean Water Program, and that is as it should be.

Meeting the clean water needs of communities throughout this Nation should not be wholly a Federal responsibility. The Clean Water Program is a Federal-State-local partnership, and the financial investment in and operational control of the program should reflect that partnership.

While many of us here may disagree with the President on this particular clean water bill, his current position is consistent with that which he has historically taken in support of his goals for this and other Government programs generally.

The 1972 clean water amendments, which represented a complete rewrite or prior water pollution control laws, strengthened the program of grant assistance to municipalities for the construction of sewage treatment facilities to meet the requirements of the act. The Federal share of eligible project costs was raised at that time to 75 percent, and $20.75 billion was authorized for grants, including reimbursement grants, to construct treatment facilities.

Mid-course corrections to the 1972 act were made in the 1977 amendments, which authorized an additional $25.5 billion for the Construction Grants Program.

Then, in 1981, substantial reforms were made. The 1981 Clean Water Act amendments reduced the Federal share of costs under the Construction Grants Program from 75 to 55 percent beginning in fiscal year 1985.

Along with reducing the Federal exposure in the Construction Grants Program, the 1981 act made other important changes. Eligible categories for grant assistance were limited to treatment works, associated interceptor sewers and correction of inflow-infiltration problems, also beginning in fiscal year 1985.

Problems associated with combined overflows and construction and repair of collector sewers were eliminated from grant eligibility, although grants could be made for these otherwise ineligible categories up to 20 percent of a State's allotment if the Governor so decided.

Planning and design grants were also eliminated and replaced by an allowance for planning and design costs were a step three construction grant had been approved.

Thus, the administration has made important progress in increasing the non-Federal participation in Clean Water Act programs. Unfortunately, its stance on the 1987 Water Quality Act fails to recognize just how far we have come in reforming this program so that it is both fiscally responsible and responsive. In short, the administration's current proposals simply go too far in cutting back the valuable programs authorized under the Clean Water Act.

I am afraid that the President received some bad advice when he chose to veto the conference agreement on this legislation. It has certainly been strange advice, considering the enormous support from all corners for this bill. It is supported by all of the involved interest groups. It has the support of the National Governors' Association, the National League of Cities, and the National Conference of State Legislatures.

Perhaps most interesting of all, not one Member of either House of Congress opposed this legislation.

It is also worth noting that when Congress considered the 1977 clean water amendments, we had contemplated funding as high as $7 billion a year for the Construction Grants Program. The problem of a rising Federal deficit forced us to reduce that figure to $2.4 billion annually.

In the area of construction grants funding, even though the President objects to the $18 billion this bill provides the program over 9 years, we are actually phasing out the Federal program, and without abandoning the needs of States and municipalities. We end the construction grants in 4 years and the State Revolving Loan Program, which replaces the grant program, in 9 years.

Creation of State revolving loan funds capitalized in part through Federal seed money actually allows the Government to phaseout assistance in a responsible way so that State and local governments are allowed to develop alternative sources of funding for these programs.

While I recognize the administration's concerns over the funding levels of the Construction Grants Program, those levels are in fact significantly lower than the levels of the bill as passed overwhelmingly in by the House last year. After giving the bill the most detailed scrutiny, we made reductions where we felt reductions were possible. We simply do not feel that further reductions are warranted at this time. What this bill calls for are maximum authorization levels that serve as a measure of what we hope to be able to provide in the future to the extent that funds are available. Should it become necessary to reduce funding levels slightly, we would be able to do that through the budget process in cooperation with the administration.

What may be going unnoticed in all of this is the fact that we have not reached the goal of the 1972 Clean Water Act—to achieve, wherever attainable, fishable and swimmable water quality in all of the Nation's rivers, lakes and streams by mid-1983. We did not achieve that goal by 1983 and we may never achieve it unless we make the full financial investment needed.

That is why we have provided in this bill important funding for the orderly phaseout of the Construction Grants Program and creation of the State Revolving Loan Program. And that is why we have provided a new $400 million program for the control of nonpoint source pollution, an expanded program to control toxic hotspots, and provisions to address the particular pollution problems faced in our lakes and estuaries.

This legislation represents a united effort to develop a strong, efficient and balanced approach to ensuring clean water for all Americans.

And the American people support that goal. In a 1984 Harris poll of more than 1,200 voters, 85 percent said they favor strict enforcement of air and water pollution controls as required by the Clean Air and Clean Water Acts. Only 9 percent expressed opposition.

The advice that President Reagan has received thus far need not be the final word on this matter. Just as I urge my colleagues to vote for H.R. 1 today, so, too, do I urge my President to sign this most important piece of legislation.

We have before us today one of the most important environmental laws of the 100th Congress and perhaps of the decade. We must not let this opportunity to secure its enactment pass us by.

Mr. Speaker, allow me to highlight some of the most significant amendments of the bill.

One of H.R. 1's most valuable contributions is its new and comprehensive nonpoint source Pollution Control Program. The Clean Water Act, as written in 1972 and amended in 1977 and 1981, focused on point source discharges of pollution. Over the years, however, new information has indicated that nonpoint sources contribute up to 50 percent of the water pollution in some States. Thus, the conferees establish a new national policy to develop and implement programs for controlling nonpoint sources of pollution. New section 319 of the Clean Water Act will provide for State assessment reports, management programs, optional interstate management conferences, and needed Federal funding. With this new emphasis on nonpoint sources of pollution, we should be able to wage a more comprehensive and complete assault on water pollution throughout the Nation.

A related issue involves stormwater discharge permits. The bill retains important provisions of last year's House bill (H.R. 8) on agricultural discharges and expands upon municipal stormwater provisions addressed inadequately by the House and Senate-passed bills. The conferees last year retained section 37 of the House bill, specifically excluding agricultural stormwater discharges from the definition of a point source. In addition, the conferees extensively revised the stormwater permit provisions for municipalities and industrial dischargers, recognizing the disasterous consequences that could result if provisions in the House and Senate-passed bills remained unchanged. For industrial and large municipal discharge—storm sewer systems serving a population of 250,000 or more—not later than 2 years after the date of enactment the Administrator must establish regulations setting forth permit application requirements. Applications for permits must be filed within 3 years after the date of enactment and the Administrator or the State, as the case may be, must issue or deny such permits within 4 years of the date of enactment. These permits must provide for compliance as expeditiously as practicable but in no event later than 3 years after the date of issuance of the permit. For discharges from storm sewers serving a population of 100,000 or more, the Administrator must establish permit application requirements within 4 years of the date of enactment. Applications for permits must be filed no later than 5 years after date of enactment, and the Administrator or the State, as the case may be, must issue or deny the permits within 6 years after the date of enactment. The permits must provide for compliance as expeditiously as practicable but in no event later than 3 years after the date the permit is issued.

The new language will properly reduce the universe of permits required for storm water from millions to thousands without reducing the protection of the environment. We established a mechanism that will require permits only where necessary—rather than in every instance. Without these changes, local, State, and Federal officials would be inundated with an enormous permitting workload even though most of the discharges would not have significant environmental impacts.

In the same section of the bill, the conferees addressed the permitting requirements for industrial stormwater runoff. It is important, however, to clarify that a discharge is "associated with industrial activity" if it is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. Discharges which do not meet this definition include those discharges associated with parking lots and administrative and employee buildings.

Mr. Speaker, there is another issue I would like to address with respect to industrial stormwater discharges. The conferees provided in new subparagraph 402(p)3) that permits for discharges of stormwater associated with industrial activity must meet all applicable provisions of sections 301 and 402 of the act. Congress intended by this provision to make clear that, when permits are issued for industrial stormwater discharges, such permits must comply with applicable provisions of sections 301 and 402. It is the new amendments to section 402, however, that govern when permits must be issued not only with respect to municipal separate storm sewers but also for industrial stormwater discharges. Within 2 years after enactment of the amendments, EPA must promulgate regulations setting forth the permit application requirements. Applications for permits must be filed within 3 years after enactment of the amendments, and permits for such discharges must be issued or denied within 4 years after enactment. This timetable applies both to the large municipal and to industrial dischargers. Thus, stormwater discharges associated with industrial activity that are not already covered by permits on the date of enactment would ordinarily be subject to enforcement actions only if permit applications for such discharges are not filed within 3 years after enactment of the amendments.

The bill also contains an important provision clarifying the regulatory treatment of stormwater runoff from oil, gas, and mining operations. Section 402 of the Clean Water Act is amended to prohibit the Administrator from requiring permits for stormwater runoff from mining operations or oil and gas exploration, production, processing, or treatment operations or transmission facilities except when the runoff is contaminated by contact with the overburden, raw material, or various waste products. With this limitation on the permitting requirements for such stormwater runoff, important oil, gas, and mining operations will be able to continue without unnecessary paperwork restrictions, while protection of the environment remains at a premium.

The bill includes important provisions on clean lakes, research and management of pollution in the Great Lakes, and estuary management conferences. In amending the act's section 314 clean lakes authority, H.R. 1 provides for increased environmental protection with the addition of a new demonstration program. I am particularly pleased to see that Beaver Lake in Arkansas is included as one of the projects in this important $40 million demonstration program. The bill also authorizes EPA to conduct demonstration projects related to restoring the biological integrity of acidified lakes and watersheds through liming. In addition, H.R. 1 establishes a Great Lakes Program Office in EPA and a Great Lakes Research Office in NOAA to develop and implement environmental programs with special emphasis on the control of toxic pollutants. The bill also authorizes EPA to convene estuary management conferences to solve water pollution problems in estuaries throughout the country.

H.R. 1 makes numerous changes to improve dramatically the removal and control of toxic pollutants. Toxics present one of the greatest dangers to this Nation's health and welfare. The conference report addresses this increasing concern in numerous areas. For example, EPA is directed to identify toxic pollutants which may be present in sewage sludge and to promulgate regulations and impose conditions in section 402 permits to protect public health and the environment. H.R. 1 also contains important provisions relating to water pollution control levels to be achieved after the act's technology-based BPT/BCT/BAT standards have been met. States must submit to EPA lists of navigable waters for which applicable water quality standards are not expected to be achieved after implementation of the best available technology and after pretreatment requirements and new source performance standards are met. States must also propose individual control strategies to reduce the discharge of toxic pollutants. In addition, EPA must develop methods for establishing and measuring water quality criteria for toxic pollutants.

The bill allows case-by-case modifications of BAT limits for preexisting discharges from coal remining areas.

This is consistent with the concern of the administration and the needs of the coal mining industries. In addition, the amendment ensures careful analysis of environmental concerns by requiring an applicant to demonstate that the coal remining operation would result in the potential for improved water quality. The conferees specifically agreed to retain the phrase "potential for" so that applicants would not face the unreasonable burden of showing actual improvement in every instance.

Another important regulatory issue involves EPA's variance for fundamentally different factors [FDF's]. Under current law, a discharger can apply for and receive modifications from otherwise applicable effluent guidelines upon demonstating that his plant is fundamentally different from the plants which EPA based its effluent guidelines. The Supreme Court recently ratified the FDP variance process in *Chemical Manufacturers Assoc. v. National Resources Defense Council, Inc.*, — U.S.—; 105 Sup. Ct. 1102; (1985). Today, Congress gives its full support for this administratively created FDF mechanism and provides further direction to EPA.

While it limits the availability of the FDF modification in some instances, the bill also recognizes the tremendous importance of the variance process to the Clean Water Act's regulatory program. For years, Federal courts have articulated many reasons for retaining FDF variances. By establishing variances from nationally applicable effluent limitations guidelines and standards, the FDF modification provides necessary flexibility to nationwide standards and allows necessary challenges to regulations in a nonrulemaking forum. Courts around the country have upheld nationally applicable effluent limits specifically because of EPA's FDF variance, which provided a needed "safety valve." See for example *American Frozen Food Institute* v. *Train* 539 F. 2d 107 (D.C. Cir., 1976) and *Natural Resources Defense Council, Inc.* v. *EPA*, 537 F. 2D 642 (2d Cir., 1976).

In NRDC versus EPA, the court held that the establishment of an FDF variance was a valid exercise of EPA's rulemaking authority pursuant to section 501(A) of the act. The court stated that, in the context of the Clean Water Act, the variance was particularly appropriate:

> The sheer number of point sources potentially subject to regulation and the rapidly approaching statutory deadlines required the EPA to restrict itself in the regulation promulgation process to a representative sampling of plants. It is entirely possible that the resulting regulations will prove ill-suited to some of the unsampled individual plants to which they will be applied in the permit process. Unless the variance clause is established, there is no guarantee that such a defect could be effectively remedied if it occurred. Review of the regulations pursuant to section 509 of the act is not an acceptable substitute. Since the act authorizes informal rulemaking, review of the regulations will tend to be narrowly confined. The petitioner's recommendation that the rulemaking procedure be reopened at the permit-granting stage is unnecessarily cumbersome.— 537 F. 2d at 647.

Finally, the court warned that "Not all of the thousands of plants in operation could be expected to fit into prefabricated molds or templates. By specifying a permit procedure, Congress implicitly conferred on the permit-grantor the privilege of continuing the broader regulations in light of the specific type of plant applying for the permit. Without variance flexibility, the program might well founder on the rocks of illegality." 537 F. 2d at 647.

Recognizing the importance of an FDF variance, the conferees last year refused to limit severely its usefulness or applicability. Thus, the conferees agreed to many of the provisions in the House bill rather than those in the Senate bill. Under new section 301(n), EPA may issue fundamentally different factors [FDF] variances from national effluent limitations guidelines or categorical pretreatment standards. The FDF application must be based on information which the applicant submitted, or did not have a reasonable opportunity to submit, during the relevant rulemaking. An applicant would satisfy the "did not have a reasonable opportunity to submit" test in the following situations:

First, the discharger knew of the rulemaking, but had no reason to know until the final rule was issued that certain data would be relevant to the specific nature of the final rules—that is, the subcategorization as well as the exact numerical limits—as they apply to his facility;

Second, the discharger knew of the rulemaking, but could not submit certain data showing fundamental differences because those data could not be generated until the final rules were issued and tests could be run to assess the expected performance of the facility in complying with the final numerical limits; and

Third, the discharger did not know of the rulemaking, due to lack of actual or constructive notice.

I am pleased that the conferees deleted provisions in each bill related to savings clauses and other statutes. As a result, the Water Quality Act of 1987 does not in any way affect the well-established rulings of Milwaukee, I, II, and III involving the Clean Water Act. Taken together, these decisions hold that, in interstate water pollution disputes, a downstream plaintiff State may not apply Federal common law nor the State common or statutory law of the downstream State against an upstream State with EPA-approved water pollution contorl requirements. In Milwaukee II, the Supreme Court held that the "all encompassing program of water pollution regulation" under the Clean Water Act preempted the Federal common law of nuisance. As stated by the court:

> Congress has not left the formulation of appropriate Federal standards to the courts through application of often vague and indeterminate nuisance concepts and maxims of equity jurisprudence, but rather has occupied the field through the establishment of a comprehensive regulatory program supervised by an expert administrative agency.—*City of Milwaukee* v. *Illinois*, 451 U.S. 304, (1981).

Today, Congress leaves this comprehensive regulatory mechanism intact and does not in any way imply that Federal common law remedies are available to supplant or supplement remedies already available under the Clean Water Act. Interstate water pollution should be—and will remain—the subject of uniform Federal law and not the conflicting laws of various States.

I am particularly pleased the conferees deleted section 118—interstate dispute resolution—and section 119—preservation of other rights—of the Senate-passed bill. Both of these provisions were rife with potential mischief for the Clean Water Act's regulatory program. Section 118 established an unnecessary new dispute resolution process, mandating that EPA serve as an arbitrator in interstate disputes. Under current law, EPA can already intervene in such disputes as part of its review of State water quality standards. Section 119 would have fostered State enforcement of State statutory or common law by removing impediments to Federal court jurisdiction established by Milwaukee I, II, and III. Each State would be able to impose its own statutory or common law upon residents of other States and interfere with the regulatory actions of those other States. The result would have been contrary to a rational, orderly, and consistent regulatory scheme.

I do have some concerns about other regulatory provisions in title I. In certain respects, the conference report from last year failed to impose realistic deadlines and requirements or to provide the necessary amount of discretion and flexibility to EPA. As legislators, we must always strive to write laws that are workable and achievable. I am afraid that we did not do this consistently throughout the conference report. Because the bill before us today is the same in all substantive respects with last years conference report, my fears remain unabated.

My greatest concern is over the bill's compliance dates. The Senate bill from the previous Congress extended compliance deadlines for priority, conventional, and nonconventional pollutants to "as expeditiously as practicable" but not more than 3 years after the promulgation of effluent guidelines, with an outside date of July 1, 1988. The conference report adopted the Senate provisions, but modified the outside compliance date to March 31, 1989.

This is not a satisfactory—or sensible—resolution. Subsequent information and comments from EPA indicate that the deadline is unrealistic. It does not allow enough time to achieve compliance. Industrial direct discharges find themselves in an uncompromising situation, since EPA has not yet promulgated final effluent guidelines for various pollutants. Industrial facilities still waiting for guidance from EPA will have very little time to install necessary water treatment facilities. By retaining the March 31, 1989, deadline, I am afraid we are legislating fiction, and defying common sense.

I am concerned that the bill's legally enforceable requirements, coupled with the act's citizen suit provisions may untimately harm the program. The cumulative load of deadlines throughout the bill may set up EPA, States, municipalities and industries for failure which will, in turn, breed endless litigation and disrespect for the law. As an example of the unreasonableness of some of the deadlines in the bill, I note that some of the deadlines imposed in the bill have already been missed. We must avoid imposing unrealistic requirements that result in courts—rather than expert agencies—running the Clean Water Act Program. I hope, Mr. Speaker, this new bill will not establish an unhealthy spiral of missed deadlines, lawsuits, congressional distrust, more deadlines, more missed deadlines, more lawsuits to infinity. If it does, then Congress should expect to revisit the whole issue again soon.

The conferees agreed on a new compliance date for achievement of effluent limitations guidelines: As expeditiously as practicable, but no later than 3 years after promulgation of the guidelines, but in no event later than March 31, 1989. During the discussion of this issue in the conference, it was noted that this deadline could pose a significant problem for some plants in the organic chemicals, plastics and synthetic fibers [OCPSF] industry. Our hearings clearly demonstrate that at least 3 years from promulgation is needed for most plants to comply. The guidelines for the OCPSF industry were required, by court order, to be issued by December 1986, a date that has passed without the guidelines having been issued. Even if the guidelines had been issued in December, OCPSF plants would have had only 2 years and 3 months to obtain permits and design, construct, install and operate the equipment necessary to meet the applicable limitations. It, therefore, appears that some OCPSF plants may fail to comply with their guidelines by the time required, not through any fault of their own, but simply because their guidelines were not issued early enough. Congress and EPA are both aware of their problem. Delay in promulgation of guidelines may make it impossible for some plants and industries to comply with the March 31, 1989 deadline. We agreed to address this problem in the conference report.

EPA told us that if presented with a compliance problem due to delay in guidelines promulgation, they would issue an administrative order to establish a reasonable compliance date for the discharger beyond March 31, 1989. The order would not assess a penalty for the discharger's failure to meet the statutory compliance date. EPA stated that it currently issues such orders to dischargers who are unable, because of delays in guidelines promulgation or permit issuance, to meet the July 1, 1984, deadline in existing law. EPA's statement that it would continue to issue these orders was the major reason for our March 31, 1989, outside compliance date. Issuance of such orders by EPA provides a useful method for remedying inequities suffered by specific plants as a result of the delay in guidelines promulgation. When a plant is issued this type of order, the plant should not thereafter be subject to suit—by EPA, a State, or a citizen—on the basis of its failure to adhere to the statutory compliance date. It is our intent that noncompliance which is not the fault of the plant should not be penalized in any way, whether administratively, legally, or in the eyes of the public.

On another issue, the anti-backsliding provision included in the bill, while designed to ensure that reasonable further progress is made in meeting the goals of the act, is not designed to prohibit industrial growth, nor to penalize those who have production-based permits.

Technology-based limits are often based on the level of production at a facility—pounds per ton. Permittees will continue to be able to increase their production or add to or change their manufacturing processes. They would, of course, still be required to maintain the effluent limitation guidelines—pounds per ton—issued by EPA for the appropriate industrial categories or subcategories as well as meet all applicable water quality standards.

The funding levels in H.R. 1 are both environmentally responsive and fiscally responsible. There is no unwarranted drain on the Federal Treasury in this bill. The level of $18 billion over 9 years for the current sewer grant program and the new State revolving loan fund represents a reasonable compromise and a worthy investment. The wastewater treatment needs of this Nation are steadily increasing. The creative financing in H.R. 1 will address these needs, but at the same time initiate the final phase of the transition to State and local self-sufficiency as soon as reasonably possible. Mr. Speaker, this bill signals a movement from the current level of Federal financial involvement to a program focused on increased State and local self-sufficiency; it does not, however, abandon the crucial Federal-State-local partnership that has developed over the years.

One of the bill's most innovative proposals is its revolving fund program through which a State will be able to provide financing assistance to its policial subdivisions and, upon repayment, be able to use that money again to construct needed pollution control facilities. These funds can be used for loans, guarantees, interest subsidies, and other nongrant purposes. Under this new authority, many more communities will receive funding for construction of needed wastewater treatment facilities. Countless communities have waited in vain for Federal funding, because they were too low on State priority lists. This new revolving fund program will help those communities meet their requirements under the act.

The bill will also remove current obstacles to the use of funding provided by Farmers Home Administration for Clean Water Act construction grant projects. Many rural communities would not be able to finance the substantial cost of meeting the act's requirements without use of FmHA funds.

Another important issue which the bill addresses is the problem of insuring that our ground water resources are adequately protected. Communities around the country face problems caused by pollution of the Nation's aquifers. Accordingly, the bill before us today calls upon EPA to undertake a study of the measures needed to adequately protect water resources at seven specified aquifers, including the Sparta aquifer in Arkansas. Because of the growing threat to ground water posed by point sources and nonpoint sources, it is appropriate that we dedicate our efforts to examining how we can best protect this important supply of water for millions of Americans.

Another provision of this bill with which I am particularly pleased is an increase in the rural set-aside program. Under the current law a Governor may set aside 4 percent of the State's construction grant funds to address water pollution problems in rural areas. This is an important provision which insures that our rural communities are not forgotten under the Clean Water Program. The conference report expands the rural set-aside program by requiring that at least 4 percent and not more than 7½ percent of a State's allotment shall be made available for rural problems.

Mr. Speaker, H.R. 1 provides vital funding to States and municipalities and makes farsighted changes to the Clean Water Act's regulatory program. It coordinates governmental and private actions in pursuit of one common goal: making our waters fishable and swimmable. The bill addresses the needs of municipalities and State governments, but at the same time recognizes the importance of increasing non-Federal self-sufficiency and decreasing Federal expenditures. In spite of today's budgetary constraints, H.R. 1 represents a worthy investment in our Nation's water quality. It is one of the most important environmental laws of the 100th Congress and perhaps of this decade. I urge my colleagues to support it fully. Furthermore, I urge the President to reconsider his objections to the bill and allow for it to become law.

Let me take a moment to congratulate the many Members who made such valuable contributions throughout this lengthy and arduous process. I want to thank the gentleman from New Jersey [Mr. Howard], who serves so ably as the chairman of the Committee on Public Works and Transportation, for his leadership and good judgment on this bill. I also want to congratulate the chairman last year and the ranking minority member of the Water Resources Subcommittee, the gentleman from New Jersey [Mr. Roe] and the gentleman from Minnesota [Mr. Stangeland] for their tireless efforts, their spirit of cooperation, and especially for their comprehensive understanding of the issues. I especially want to thank the former ranking Republican member on the House Public Works Committee, the gentleman from Kentucky, Mr. Snyder, who so ably helped to mold this bill. And of course, I would be remiss if I did not thank the able leadership of the Environment and Public Works Committee in the other body for its guidance and cooperation.

Finally, Mr. Speaker, I would be remiss if I did not take this opportunity to thank all of the staff who worked so tirelessly over the years toward passage of clean water legislation. In particular, I would like to thank—and to congratulate—Gabe Rozsa, Ben Grumbles, Kathy Guilfoy, Errol Tyler, Ken Kopocis, Randy Deitz, and Charlotte Miles of the Water Resources Subcommittee. I would like to give a special note of appreciation to John Doyle. John served the members of the committee and, indeed, all of the Members of the House over the past 8 years as minority counsel to the Water Resources Subcommittee. He recently left the committee staff to assume new responsibilities as the principal Deputy Assistant Secretary of the Army for Civil Works. During the past few years he helped craft this bill in many ways and my colleagues and I are deeply indebted to him for all his help. I would also like to thank the Senate staff, including Bob Hurley, Phil Cummings, Jeff Peterson, Jimmy Powell, Ron Outen, and Steve Shimberg. All of these people worked practically nonstop for months, dedicating countless nights and weekends to make this moment happen. Some individuals endured this lengthy process for over 4 years. Because of their efforts, we have a bill that everyone can be proud of.

□ 1330

Mr. FIELDS. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from Texas.

(Mr. FIELDS asked and was given permission to revise and extend his remarks.)

Mr. FIELDS. Mr. Speaker, as a cosponsor of H.R. 1, I rise to express my strong and enthusiastic support for the passage of this critically important legislation.

This bill, which is the product of several years of hard work, is virtually identical to a proposal which unanimously passed both bodies of Congress last year.

The fundamental purpose of this legislation is to reauthorize the landmark and historic Federal Water Pollution Control Act.

This law, better known as the Clean Water Act, is one of our most important and prominent environmental statutes. Since its enactment in 1972, impressive strides have been made in cleaning up thousands of lakes, rivers, and streams throughout this Nation.

Mr. Speaker, today we have an opportunity to renew our commitment to the national goal of making all of our waters fishable and swimmable for the benefit of every American.

While there are a number of key provisions contained within this legislation, including an extension of the Federal Wastewater Treatment Program, I will confine my remarks to the specific portion of this bill dealing with the Federal Clean Lakes Program.

Incorporated within section 315 is important language to improve water quality in Lake Houston, which is located in my congressional district.

Mr. Speaker, Lake Houston is a 12,000-acre manmade lake located within Harris County, TX. Owned by the city of Houston, it was created to provide residents with an alternative source of drinking water to replace the area's rapidly depleting ground water supply.

Based on current needs and projections, it is expected that the Lake will continue to provide drinking water to some 40 percent of the city's population.

As the Members of Congress who proudly represents the Lake Houston area, I have long recognized the importance of this vital watershed in providing both safe drinking water and recreational opportunities for thousands of my constitutents.

For these reasons, I have viewed with alarm the periodic increases of fecal coliform bacteria in the lake. In fact, at one point the Houston Water Department found that 12 out of its 14 sampling locations around the lake exceeded the pollution standards for water used for contact recreation.

While water quality in the lake has fluctuated in recent months, the problem of fecal coliform bacteria remains a serious and unresolved matter.

In response to this problem, I introduced legislation in the last two Congresses to improve the water quality in Lake Houston. In addition, I have worked closely with the members of the House Public Works and Transportation Committee.

Mr. Speaker, I am extremely grateful that my efforts on behalf of Lake Houston have been included within H.R. 1, and I want to particularly thank our distinguished colleagues, Congressman Jim Howard, Bob Roe, John Paul Hammerschmidt, and Arlan Stangeland, for their invaluable assistance. I am convinced that this legislation will have a very positive and significant impact on water quality in this vital watershed.

Mr. Speaker, as currently written, Lake Houston has been selected as 1 of 11 major nationwide projects which will participate in a new and innovative lake water quality demonstration program.

The purpose of this multifaceted program will be to: First, develop cost-effective technologies for the control of pollutants in order to preserve or enhance lake water quality; second, control nonpoint sources of pollution; third, demonstrate environmentally preferred techniques for the removal and disposal of contaminated lake sediments; fourth, develop improved methods for the removal of silt, stumps, aquatic growth, and other obstructions which impair the quality of lakes; and fifth, construct and evaluate the use of silt traps or other devices to prevent or abate the deposit of sediments in our lakes.

In addition, it will evaluate the feasibility of implementing consolidated pollution control strategies such as regional wastewater treatment plants.

While I do not intend to prejudge the findings of this program, it is clear that the more than 200 wastewater treatment plants that are located in and around Lake Houston have had a tremendous impact on this watershed. It is these plants, or at least some of them, which have been identified as the source of the pollution problem.

In order to carry out this important demonstration program, H.R. 1 authorizes an appropriation of $40 million which will be available until expended.

Mr. Speaker, with the enactment of my Lake Houston Project, we will not only guarantee an improvement in the water quality of this lake but we will prevent the development of a hysteria that Lake Houston is a dirty, polluted body of water.

Mr. Speaker, Congress made a commitment to the American people through the Clean Water Act that our Government would improve and maintain the highest quality of our precious water resources.

Passage of the Water Quality Act of 1987, H.R. 1, will continue that vital commitment to both our Nation and to the people of the Eighth Congressional District. We must ensure that in the years ahead our rivers, lakes, and streams are safe and pure for all Americans.

I would urge my colleagues to strongly support the immediate passage of this most important legislation and to join with me in encouraging the President to sign this vital measure into law.

Mr. HAMMERSCHMIDT. Mr. Speaker, I reserve the balance of my time.

Mr. HOWARD. Mr. Speaker, I yield 4 minutes to the new chairman of our Subcommittee on Water Resources, the gentleman from New York [Mr. Nowak].

(Mr. NOWAK asked and was given permission to revise and extend his remarks.)

Mr. NOWAK. Mr. Speaker, I am pleased to speak in support of H.R. 1, the Water Quality Act of 1987. This bill is the result of 4 years of work by the Congress and months of negotiation with the Senate. It is the same legislation which passed this House unanimously by a vote of 408–0 and passed the Senate by 96–0, this past October. Despite this overwhelming support, the President pocket-vetoed the legislation. We now must reapprove this legislation with the same overwhelming support as in the 99th Congress to assure that this bill becomes law.

H.R. 1 is a continuation of our commitment to the cleanup and maintenance of our Nation's waters. The bill reauthorizes the construction grants program to provide $9.6 billion over 5 years through 1990 for much-needed aid to localities for the construction of sewage treatment facilities. In addition, $8.4 billion is provided over the 6 years from 1989 through 1994 to establish State revolving loan funds. These State revolving funds, together with the construction grant authorizations, will enable municipal water pollution control needs to be met within a reasonable time.

Mr. Speaker, at this time I would like to engage in a colloquy with the gentleman from New Jersey to clarify the funding provisions of the Great Lakes amendment, that have been incorporated into this legislation.

First, I would like to thank the gentleman for his support of the amendment, which for the first time establishes a coordinated cleanup program for Great Lakes. This is a small part of the bill, but a big step forward for the Great Lakes, and I think the gentleman can be proud of his role in helping to make it happen.

As I explained earlier, the amendment provides $11 million per year from fiscal 1987 through fiscal 1991 to be subdivided as follows: $4.4 million for demonstration cleanups of toxic-contaminated sediments; $3.3 million for a NOAA research program; and $770,000 for nutrient monitoring. I just want to clarify that these funds are to be provided in addition to the existing appropriation for the Great Lakes National Program Office.

Mr. ROE. Mr. Speaker, if the gentleman will yield, the gentleman's understanding is correct. The purpose of the amendment is to build on the agency's existing resources, not to displace them.

Mr. NOWAK. Mr. Speaker, if we viewed the amendment any other way, our goals would be thwarted. The Great Lakes National Program Office currently has an operating budget of $5 million per year. That money is used to support vital projects such as studies of atmospheric deposition in the lakes, and toxic contamination in nearshore areas. These ongoing activities are required by the United States-Canada Water Quality Agreement. If this amendment were to be seen as displacing the existing GLNPO appropriation we would actually be reducing funding for these activities to $2.5 million per year. I just want to make clear that the committee does not intend such an illogical result.

Mr. ROE. That is right. The point of this amendment is to reverse a decade of neglect of the lakes, not to add chaos to EPA's existing programs. A recent National Academy of Sciences' report found that the population of the Great Lakes is exposed to appreciable more toxic substances than those in other parts of the United States. This amendment will provide the EPA with resources to help reverse that trend.

The bill also contains a provision establishing a procedure for the Environmental Protection Agency to address the problem of toxic hot spots. These toxic hot spots occur in areas where water quality fails to meet applicable standards, notwithstanding the dischargers being in compliance with applicable permits. EPA will require pollution controls beyond those associated with installation of best available technology, to reduce and eliminate these toxic hot spots.

Other important provisions of the bill, and of particular importance to me, relate to the monitoring and control of pollution in the Great Lakes. These provisions would designate EPA's Great Lakes Program Office as the lead agency responsible for United States compliance with the United States-Canada Water Quality Agreement. It would require EPA to establish a toxics monitoring and surveillance network for the Great Lakes and develop a multiagency program for cleanup. The legislation would begin the cleanup of the Buffalo River as a demonstration of ways to address removal of sediments contaminated by toxic pollutants.

To implement these Great Lakes provisions, the bill contains an authorization of $11 million per year for fiscal years 1987 through 1991 to be divided as follows: $4.4 million for demonstration cleanups of toxic-contaminated sediments; $3.3 million for a National Oceanic and Atmospheric Administration Research Program; and, $770,000 for nutrient-monitoring. These amounts are in addition to existing appropriations for the Great Lakes National Program Office and are not meant to displace current resources.

The bill establishes a national policy that programs for the control of nonpoint sources of pollution be developed and implemented in an expeditious manner. The bill provides $400 million over 4 years to States or combinations of adjacent States to implement nonpoint source management programs. Since as much as 50 percent of the pollution in our waters, is estimated, to be caused by nonpoint sources it is imperative that this pollution be addressed promptly.

Our efforts toward clean water are further strengthened by the strong antibacksliding section in the bill. That section prohibits, except in certain narrow circumstances, the ability of a permitted discharger to increase the amount of pollutants discharged, when permits are renewed or modified. This will aid in the effort to obtain continually cleaner water in our Nation.

The legislation provides for increases in civil and criminal penalties for violations of the act. It also provides for the addition of new authority for EPA to impose administrative penalties to add to EPA's enforcement capabilities under the act. Hopefully the increases in penalty amounts and the addition of administrative penalties will reduce violations of the act and discourage those parties who would choose to violate the act with little fear of punishment.

There are numerous other provisions in the bill which continue our efforts to cleanup and maintain our Nation's waters. The passage of the bill will once again send a strong message to the administration on the urgency of addressing the nation's need for responsible and effective measures, to achieve and preserve the quality or our waters. I urge my colleagues to give unanimous support to the legislation, as this House did only a few weeks ago.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield one minute to the gentleman from Minnesota [Mr. STANGELAND], the ranking member of the Water Resources Subcommittee, and hard working member of our committee.

(Mr. STANGELAND asked and was given permission to revise and extend his remarks.)

Mr. STANGELAND. Mr. Speaker, I rise to address provisions in H.R. 1, the Water Quality Act of 1987. This legislation is the result of conference discussions in the 99th Congress spanning over 6 months and work, by House and Senate committees spanning over 4 years. Weeks of hearings, thousands of pages of testimony, and countless hours of analysis, discussion and debate led to development of this vitally important environmental legislation.

H.R. 1 should look strikingly familiar to each of us. This legislation—like its counterpart S. 1—is virtually identical to the conference report on S. 1128, which passed the House and Senate unanimously—by combined votes of 504 to 0—less than 3 months ago but was pocket vetoed by the President on November 6. As a matter of fact, H.R. 1 is the same as S. 1128 except for a few purely technical changes, such as replacing 1986 with 1987 in the act's name to reflect the new year.

I should also point out that despite its immediate consideratoin in the 100th Congress, H.R. 1 has a complete legislative history in the form of documents from the 99th Congress. To determine congressional intent in H.R. 1, one should first consult the conference report on S. 1128 and then, if necessary, committee reports and floor statements for the 99th Congress' House- and Senate-passed bills (H.R. 8 and S. 1128). These documents, particularly S. 1128's conference report, provide a detailed legislative history for H.R. 1 even though the new legislation introduced just 2 days ago has no committee report, conference report, or statement of managers from the 100th Congress.

From the outset, let me thank and congratulate all the key players in the 99th Congress responsible for his legislation. In particular, I would like to commend the chairman of our Public Works Committee, Mr. HOWARD, the full committee's ranking Republican member, Mr. SNYDER, and the subcommittee chairman who presided over the conference, Mr. ROE. Chairman ROE worked tirelessly for the past two Congresses holding hearings, researching the issues, and perfecting the bill's language. He devoted entire weekends and worked constantly around the clock to bring this legislation to us today. I also want to congratulate last year's Senate conferees, particularly Senators CHAFEE, STAFFORD, BENTSEN, MITCHELL, and MOYNIHAN. They deserve our thanks, not only for their hard work and dedication, but also their patience and willingness to find balanced and acceptable solutions to the myriad of water quality problems facing this Nation. Special thanks are also due to Members of the 100th Congress—particularly the new ranking minority member of the House Public Works Committee, JOHN PAUL HAMMERSCHMIDT, and the new chairman of the Water Resources Subcommittee, HENRY NOWAK, for their contributions and bipartisan cooperation.

Mr. Speaker, months ago very few in this Chamber, or in Washington for that matter, would have predicted the House and Senate could reach agreement in the Clean Water Act Conference. The issues were seen as being too complex and time consuming. Most people felt the clean water bill would simply be lost in the rush to adjourn. Yet, the conferees were able to achieve compromise in the form of a carefully crafted, well reasoned bill that earned the unanimous support of Congress. Our success was due not only to the dedication of all involved in last year's conference, but, more importantly, to the commitment of Congress and the American people to the goals of the Clean Water Act.

H.R. 1, which is virtually identical to the conference report on S. 1128, represents a balance of House and Senate interests and, quite honestly, is a better product than either of its two predecessor bills, H.R. 8 in the House and S. 1128 in the Senate. The resulting legislation ensures full protection of the environment in a way that adequately protects those who bear the cost of the required protective measures.

Under the conference substitute embodied in H.R. 1, the Construction Grant Program continues at the current annual authorization level of $2.4 billion through fiscal year 1988. Thereafter, the program authorization level is reduced to $1.2 billion per year until the program is eliminated, beginning in fiscal year 1991. This adopts the funding level in the Senate bill and represents a responsible approach to a total phase-out of the construction grant program.

Mr. Speaker, we cannot just walk away from communities that have not received grant funding because, quite frankly, they have polluted less. If we did nothing more than discontinue the construction grants program sometime in the future, this improper result would occur. The conferees' solution to this problem was to provide the same type of transitional financing mechanism contained in both House and Senate bills. That mechanism, now commonly referred to as State revolving fund capitalization grants, originated in the 98th Congress in the House-passed version of this legislation. After a year-long study by EPA, the Agency endorsed the idea, and in the 99th Congress our counterparts in the Senate included authorization for State revolving fund grants in their bill, improving on some of the orignial House concepts. H.R. 1's provisions are the end product of this evolutionary process, and the new State revolving fund authorities we bring to you today will possibly put the States in a position a few years hence to adequately fill the financial assistance void that would otherwise be created by phasing out the construction grants program.

To assist in the phase-out of the Construction Grant Program, we are calling for funding for a new revolving loan program. Revolving loan funds have been tried in a number of States, including my State of Minnesota, and found to be an extremely effective way to spend scarce resources in a way that broadens our ability to achieve the act's purposes. Under this program, the Federal Government will help provide seed money to establish State revolving funds which local communities will use to help finance needed wastewater treatment facilities. Federal moneys made available for these funds would be subject to certain restrictions on their use, as are moneys provided through the Construction Grant Program. As these moneys are repaid into the fund, the restriction on how the funds can be used would be eliminated, thereby allowing the States greater flexibility and freedom in financing municipal wastewater treatment programs.

Mr. Speaker, the allotment formula was another central issue in the conference. The House bill continued the existing formula for distributing the grant funds to individual States. The Senate bill, however, contained a new formula that was totally unacceptable to the House and that would have had States represented by a majority of the Members of the House receiving reduced shares of Construction Grant Program appropriations. My State of Minnesota stood to lose 15 percent of its annual allotment in the first 3 years and 20 percent in the last 2 years of the program under the Senate formula.

I was extremely pleased the conferees agreed to adopt an allotment formula substantially different from that in the Senate bill, under which funding for the overwhelming majority of States stays at or near the level of funding under current law. Where there are changes up or down, they are generally slight. For example, my State of Minnesota will get a slightly lower allotment than under current law, but by only $350,000—a change of less than 1 percent of the State's annual allotment of almost $45 million. This is a major victory not only for my home State, which would have lost $9 million per year under the Senate formula, assuming an appropriation of $2.4 billion, but also for the House's position on this issue.

I am also pleased H.R. 1 retains section 202(e) of last year's conference report on S. 1128. This provision recognizes the importance of the activated biofilter feature of the treatment works project for Little Falls, MN. The subsection provides that the city's activated biofilter component is deemed to be an innovative waste water process and technique and is eligible for increased grants, which the act makes available for innovative technology projects.

Mr. Speaker, H.R. 1 also calls for a major new program to address the serious problems posed by nonpoint source pollution. This initiative recognizes the growing problem of nonpoint source pollution, which contributes as much as one-half of all pollution affecting our waters. Under the program, States must establish nonpoint source programs which identify waters contaminated in whole or in part by nonpoint sources and develop management plans to deal with such pollution.

Under these management plans, the States would develop best management practices [BMP's] which are intended to be the primary water quality improvement and water quality compliance mechanism. Water quality standards established under section 303 of the act would be used to determine where nonpoint source management programs are necessary and assess the overall effectiveness of the nonpoint source management program, including BMP's, in achieving the goals of the act. Where water quality standards are not achieved, the BMP's may need to be reviewed and updated in the State Water Quality Management Program.

The bill authorizes a total of $400 million to assist States in setting up their nonpoint programs. In addition, 1 percent of a State's allotment under the Construction Grant Program or $100,000, whichever is more, would be set aside to be used for nonpoint source pollution management. Furthermore, States with greater needs in the area of controlling this kind of pollution could use up to 20 percent of the State's construction grant funds for nonpoint source problems. This increased flexibility will allow States to better target Federal funding to where it will do the most good.

Mr. Speaker, H.R. 1 provides for a strengthened and improved Clean Lakes Program under section 314 at an annual funding level of $30 million. In addition, $15 million is authorized for cleanup of acidified lakes and a $40 million special demonstration program is established for cleanup of seven specified lakes. I am particularly pleased the conferees were able to agree with me about the pressing need for this new lake cleanup program. I am also gratified that Sauk Lake at Sauk Centre, MN, is one of the lakes named in the bill. Funding under this demonstration program will allow EPA to implement measures to restore this important water body to its once pristine condition.

Mr. Speaker, another significant issue addressed in H.R. 1 relates to exemptions contained in the House and Senate bills for stormwater discharges. Under current judicial and administrative interpretations of the law, businesses and municipalities that channel and discharge ordinary stormwater into a navigable water must obtain NPDES permits.

The House and Senate crafted differing exemptions from this requirement to allow EPA and the States to focus their attention on the most serious problems. The conference substitute—new H.R. 1—adopts a new approach, incorporating and building upon the elements of both bills. With respect to municipal separate storm sewers, the bill provides that larger systems—those serving populations of over 100,000—would be subject to a permit requirement, phased in over the next few years. The conference report streamlines and phases in the permit requirements in a way to ensure that the largest systems are dealt with first and at a realistic pace. The compromise represents a balanced and targeted approach to dealing with municipal stormwater discharge problems, while at the same time establishing useful mechanisms for addressing less serious stormwater discharge pollution situations after the highest priority environmental problems are solved. The provision is meant to provide relief where it is appropriate, to cities without serious stormwater pollution problems, while providing EPA and the States with the time they need to properly address this major national water quality need.

H.R. 1 does not provide a specific permit exemption for stormwater discharges associated with industrial activity, although it does provide a new timetable for regulating such discharges. A discharge is "associated with industrial activity" if it is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. Discharges which do not meet this definition include those discharges associated with parking lots and administrative and employee buildings.

Mr. Speaker, H.R. 1 also contains a number of other significant improvements to the Clean Water Act. We have included dynamic initiatives for addressing toxic hot spot problems and the increasing problem of ground water contamination. Another provision expands the existing exemption for return flows from irrigated agriculture to include agricultural stormwater discharges.

One of H.R. 1's most significant provisions combines concepts in both the House and Senate bills passed in the 99th Congress limiting the authority of the Administrator to issue "fundamentally different factor" modifications. The conferees agreed to place certain limitations on EPA's FDF authority in an effort to encourage dischargers to be forthcoming with necessary information when EPA is in the process of establishing applicable effluent guideline regulations. The conferees also devised the restrictions contained in the conference report on this issue in order to expedite decisionmaking with respect to FDF applications that are filed. We took these actions in an effort to narrow the FDF modification opportunity in such a way as to avoid rewarding recalcitrant or otherwise uncooperative FDF applicants.

A few additional points of clarification are necessary on this matter. First, the fear of recalcitrant or uncooperative FDF applicants was more theoretical than actual. I cannot recall any specific example presented of an FDF modification application being used for the sole purpose of avoiding or postponing compliance with properly established effluent guidelines. Second, the conferees recognized the extremely important role over the past 15 years of Clean Water Act regulations that the availability of receiving an FDF modification has played in various courts, including the U.S. Supreme Court's, decisions to uphold effluent guidelines being challenged for constitutional or other reasons. We expect EPA to continue to utilize FDF modifications, where appropriate, to protect the rights of unique or improperly considered dischargers, while not delaying promulgation of needed effluent guidelines.

Thirdly, we expect to continue to allow applicants who have not had a reasonable opportunity to submit necessary information to receive FDF modifications. This concept, added to the conference report from the House-passed bill, is meant to protect the rights of reasonable applicants to be considered for FDF modifications. Examples might include a discharger who, while knowing of an applicable relevant rule making, had no reason to know until the final rule was issued that certain data would be relevant to the specific nature of the final regulations. It might also include a discharger who knew of a pending rule making but could not submit needed data showing a fundamental difference because that data could not be generated until after the final rules were promulgated.

As with fundamentally different factor modifications, the conferees agreed to place new limits on EPA's authority to issue section 301(g) nonconventional pollutant variances. There are, in addition to conventional and toxic pollutants, a large number of pollutants which the scientific community may not have sufficient data to determine their effects on human health and the environment. The 1977 amendments to the Clean Water Act recognized this and established a third category known as nonconventionals, section 301(g), in order to deal with those unknown pollutants. Such substances are to be treated at the bat level of treatment. However, the provision acts as a safety value and if, after further investigation it is determined that a lesser level of treatment will not cause the substance to interfere with water quality, the Administrator is authorized to consider such a substance for a waiver from the bat requirements.

In regard to 301(g) variances, H.R. 1 provides that when he is satisfied as to the availability of data and test methods regarding such a substance, the Administrator should be able to determine if such a substance is toxic, in which case he is required to add it to the 307(a) list. Alternatively, he may determine that, in certain circumstances or in certain trace amounts, the substance could qualify for consideration for a waiver from the bat level of treatment as a nonconventional pollutant. In order to grant a section 301(g) variance, however, the Administrator must always follow the new procedural rules set forth in the conference substitute.

Mr. Speaker, I would be remiss if I didn't take a moment to thank the dedicated and capable congressional staff who have been instrumental in crafting this legislation. On our side of the aisle, I want to thank John Doyle, Gabe Rozsa, Ben Grumbles, and Kathy Guilfoy for all of their hard work and assistance. I also want to express my appreciation to Errol Tyler, Dave Smallen, Ken Kopocis, Randy Deitz, and Charlotte Miles, staff on the majority side of the aisle. Special thanks should be given to Dave Mendelsohn and Bob Bergman with the Office of Legislative Counsel. I also want to thank the Senate staff who helped develop this excellent bill, in particular, Bob Hurley, Ron Outen, Phil Cummings, Jeff Peterson, Jimmy Powell, and Steve Shimberg. I also want to thank all of the people at EPA who were so responsive to our requests for information and so dedicated to helping us work out strong and fair compromises in the conference report and ultimately, H.R. 1.

One other person deserves special recognition on this special day, a person who, because of his untimely death earlier last year, is not physically with us today but whose presence is and will continue to be reflected in all of the better provisions of this legislation. I am referring to Peter Perez to whom the conference report was dedicated by the conferees. With his incredible knowledge of the Nation's clean water program and his tireless commitment to its improvement, Peter was a tremendously valuable asset to those of us in Congress who have responsibility for writing our Nation's water quality laws.

Whether Democrat or Republican, liberal or conservative, we felt totally able to seek infromation and analytical work from Peter. We did this knowing that regardless of what Peter may personally have felt about the specifics of any given issue, he would respond in a way that was as reliable, accurate, thorough, and objective as he was personally capable of responding. The level of trust was such that Peter was often asked to leave his home phone number in case problems requiring his assistance arose after normal working hours at night or over the weekend. Very few public servants earn that kind of professional reputation in the course of their careers. Only the best do, and Peter was one of the very best. There could be no more appropriate tribute to Peter and the work he did so well and cared so much about than for us today to unanimously endorse the legislation which so unmistakably bears his mark.

Mr. Speaker, this is an excellent bill. It is one that continues the commitment made by this country to clean water. It is balanced and fair, responsible and sensitive. It phases out the Construction Grants Program in a way that still allows us to finish the job we began in 1972. Just as its predecessor, S. 1128, H.R. 1 deserves the Congress' unanimous support, the President's signature, and the public's overwhelming approval.

Mr. Speaker, I know some people will question our decision to reintroduce the conference report the President pocket vetoed in November, to resist any substantive amendments, and to pass the legislation in early January. I also know, however, H.R. 1 represents a finely tuned and delicately balanced compromise that should be enacted as soon as possible. Never before has such an important environmental bill received unanimous votes of approval in the House and Senate and support from such a broad coalition of citizen, governmental, and interest groups. While I understand the administration's concerns, I also understand how crucial this legislation is to millions of Americans and their future generations. H.R. 1 is not perfect, but it is certainly a tremendous improvement over current law. The nation has waited far too long for such comprehensive, sensible, and environmentally sensitive amendments to the Clean Water Act. Therefore, I urge each of my colleagues to join once again in a unanimous effort to support this legislation and do whatever necessary to ensure its enactment into public law.

Mr. HOWARD. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. ANDERSON], a member of the committee.

(Mr. ANDERSON asked and was given permission to revise and extend his remarks.)

Mr. ANDERSON. Mr. Speaker, I rise in strong support of H.R. 1, the Clean Water Act Reauthorization of 1987.

As you know, last year the Congress, by a combined House and Senate vote of 504 to 0, approved this important environmental protection legislation. Much to our surprise and dismay, however, the President pocket vetoed this bill 2 days after last November's elections.

As some will recall, this is not the first time the Congress and a President have disagreed over water pollution control legislation. Back in 1972, when the Congress passed the original Clean Water Act, which I was proud to be a coauthor of, President Nixon vetoed the bill. We, of course, overrode the veto and that 1972 law is now considered one of the great success stories in cleaning up our Nation's rivers, lakes, and streams.

The bill before us today is identical to that legislation, which was vetoed by the President last November. It authorizes funds over the next 8 years to build and improve sewage treatment plants and continues strict water quality control standards.

This measure is strongly endorsed by the environmental community, industry, and State and local government organizations. And it deserves the support of each Member of this House.

I commend the leadership of our Public Works and Transportation Committee for swiftly moving this bill onto the House floor for a vote so that we can eliminate all pollution discharges into the Nation's rivers, lakes, and streams and achieve our goal of fishable, swimmable waters.

□ 1340

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 2 minutes to the distinguished, gentleman from Pennsylvania [Mr. CLINGER], a member of the committee.

(Mr. CLINGER asked and was given permission to revise and extend his remarks.)

Mr. CLINGER. I thank the gentleman for yielding.

Mr. Speaker, one of the major contributors to the pollution of our streams and rivers and ground water is what is known as acid mine drainage. As a Representative of a district that has heavy deposits of high-sulfur coal and has been in the coal mining business for many, many years, I am particularly sensitive to this contributor to the pollution problems that we are having in our water supply. We have addressed this problem in part with programs such as the Rural Abandoned Mine Program, but really we are only touching the surface, the tip of the iceberg. We need a much greater effort, I think, to address this particular contributor to the pollution problems of our water.

I think that this bill provides an incentive, a creative new incentive to begin to go about the work of cleaning up these abandoned mines which are contributing so much to pollution.

What this bill does is encourage remining of these abandoned sites. Under present law if you are a producer, if you go into an abandoned mine and do any re-mining, you become liable for cleaning up all of the discharge from that entire site. As a result, no one is willing to go in and undertake that kind of responsibility. What this bill provides is that you will not be responsible for the entire cleanup, for reducing the pollution in that mine to zero, but you will be required to maintain the water quality at the same level. But the result will be, I am convinced, a massive amount of cleanup which otherwise will not occur in these old sites. Without this, none of these mines will be touched, they will sit there year after year, continuing to drain into the streams and rivers. This bill will provide the kind of incentive to get producers to go in and start cleaning them up. I think it will result in a tremendous improvement in water quality.

Mr. HOWARD. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. Mineta], a member of the committee.

(Mr. MINETA asked and was given permission to revise and extend his remarks.)

Mr. MINETA. Mr. Speaker, I rise in strong support of this important clean water legislation. The people of this country expect us to pass this legislation quickly and without delay, and I am delighted that we are acting expeditiously.

I want to congratulate the gentleman from New Jersey [Mr. Roe] under whose leadership of the Subcommittee on Water Resources this bill was written; the gentleman from Minnesota [Mr. Stangeland], the ranking Republican of the Subcommittee on Water Resources; and also the chairman of the Public Works and Transportation Committee, Jim Howard, for his leadership and guidance on this effort.

The administration believes that $18 billion is too much to spend for cleaning up our rivers, lakes, and streams over an 8-year period. Yet, the defense expenditures proposed for just 1 year—1988—are more than 17 times as great as what we want to spend on clean water in 8 years.

A veto of this legislation will demonstrate what many of us have known for some time, that this administration's commitment to the environment is vague and meager.

I urge my colleagues to overwhelmingly pass this bill, and I hope our President has the wisdom and the understanding to sign this bill without delay.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 2 minutes to the distinguished, gentleman from New Jersey [Mr. Gallo], a member of the committee.

(Mr. GALLO asked and was given permission to revise and extend his remarks.)

Mr. GALLO. I thank the gentleman. Mr. Speaker, today I rise to support the Clean Water Act Amendments of 1987. Mr. Speaker, this measure is absolutely critical to the future economic growth of New Jersey and the Nation.

In the State of New Jersey alone, we have more than 250 communities that are under the gun to meet Federal standards on a tight timetable. More than 100 of these communities are currently unable to grow, because they cannot meet the sewage treatment requirements set by the Federal Government. We cannot continue to create jobs in a strong economy without this legislation.

Economic growth is the lifeblood of our economy because it provides jobs for our people. We must enhance, not hinder, economic development. The passage of this legislation into law will not only protect our water resources, but will enhance our Nation's economic growth.

I would also like to praise timely action by the House to reauthorize the Clean Water Act today, bringing this important environmental protection legislation forward as H.R. 1—the first bill of the 100th Congress. Mr. Speaker, this legislation creates an innovative program that protects our valuable sources of clean water from further deterioration.

I would also like to mention that I joined with my colleagues on the Public Works and Transportation Committee as an original cosponsor of H.R. 1, the Clean Water Act reauthorization, when the bill was officially introduced on the opening day of the 100th Congress on Tuesday January 6.

As a sponsor of the Clean Water Act reauthorization in the 99th Congress, I was very pleased by the unanimous support given to this bill in the House. I hope the 100th Congress is as unified in the belief that this legislation deserves our unanimous support.

This legislation represents a united effort to fashion a strong, efficient and balanced approach to ensuring cleaner water for all Americans. As a member of the Public Works and Transportation Committee which drafted the bill, and as a sponsor of H.R. 1 in the 100th Congress, I feel that this measure is a sensible solution to our waste water treatment problems.

Mr. Speaker, I would like to mention that in addition to existing programs, the bill creates a new revolving fund program to help States construct needed pollution control facilities and a new nonpoint source pollution control program.

Under the bill, the grant program for sewage treatment plant construction would continue at the current level of $2.4 billion through fiscal year 1988. From that point on, the program would be phased out and replaced with a low interest loan program, beginning in fiscal year 1991.

Funding for the new revolving loan program will begin next year to build a 5-year reserve fund. The Federal Government will use the money from this fund to provide seed money to set up state funds which will be used to help local communities to meet water quality standards.

Mr. Speaker, this innovative revolving fund is similar to the Infrastructure Bank legislation that I sponsored in 1983 as Republican leader in the New Jersey Assembly. The Federal Revolving Fund Program would be authorized at $1.2 billion for each of fiscal years 1989 and 1990 and thereafter at $2.4 billion in 1991; $1.8 billion in 1992; $1.2 billion in 1993; and, $600 million in 1994.

In addition to funding local sewer projects, the Clean Water Act authorizes $400 millon for a major new grant assistance program, under which States will be asked to establish programs to control nonprofit sources of pollution such as agricultural, urban stormwater, construction and mine runoff.

Another $15 million would be authorized to enable EPA to finance needed wastewater treatment facilities. The funds can be used for loans, guarantees, interest subsidies, and other nongrant purposes.

The bill also provides an initiative for addressing so-called toxic hot spots—waters that cannot meet applicable water conduct demonstration projects related to restoring the biological integrity of acidified lakes.

The EPA would also be permitted to make grants to help States carry out ground water quality protection activities with annual authorization of up to $7.5 million for 5 years to be derived from funds appropriated to the nonprofit source program.

This landmark legislation was the result of a great deal of hard work. It is a good bill and I urge your support. I would also like to join with the other members of the Public Works and Transportation Committee to strongly urge President Reagan to sign this important environmental legislation.

Mr. HOWARD. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. I thank the gentleman for yielding.

Mr. Speaker, I take this time to enter into a brief colloquy with the chairman of the subcommittee, Mr. ROE, with reference to section 317 of the bill.

Mr. Speaker, that section provides a national estuaries program which in effect allows the States of the Nation to request conferences in order to establish with EPA a management plan for those enormously important estuarine systems of our country.

While some of the States' estuarine systems are actually named for priority treatment under this section, the question is, is every State entitled to participate under this program and would a State like Louisiana, which has enormous estuarine systems, applying under this program be entitled to a conference and to full recognition under this section 317?

Mr. ROE. If the gentleman will yield.

Mr. TAUZIN. I yield to the chairman of the subcommittee.

Mr. ROE. I thank the gentleman for yielding.

Mr. Speaker, the interpretation of the gentleman is correct. There were some States, some estuaries that were put in there more descriptively, but all States have the same provisions, are eligible under the same provisions of the bill as far as the estuaries are concerned.

Mr. TAUZIN. I thank the gentleman.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 1 minute to the gentleman from Washington [Mr. MILLER].

(Mr. MILLER of Washington asked and was given permission to revise and extend his remarks.)

Mr. MILLER of Washington. Mr. Speaker, I represent a sprawling district in the western part of Washington State. The First Congressional District straddles three counties, two military installations, one Indian reservation, the largest city in the Pacific Northwest, a small farm community, and the fastest growing suburban area in the region. There is one thing, however, that unites this sprawling, disparate congressional district. Our great unifier, Mr. Speaker, is Puget Sound. They say that if you can see the Sound, you are in the First District. The people of the First District work, play, travel and live on the Sound. The waters and tributaries of Puget Sound are the life blood of the First District. The quality of life in the First District depends a great deal on the water quality of Puget Sound. So I have a very parochial interest in supporting the bill before us today.

But Mr. Speaker, the First District is not unique in its dependence on water resources, like Puget Sound. There are cities, towns, and neighborhoods across America which share this dependence on their local waterways. The quality of our water resources is basic to the quality of life in this Nation. We continue to endanger these resources at our peril. That is why we must pass the Clean Water Act today. This bill is effective, it is fiscally responsible, it is responsive to the needs of local communities. The need is great and our time is short, Mr. Speaker.

Finally, Mr. Speaker, I urge the President to support this bill. Congressional support has been unanimous. We will enact this bill with or without the administration's support. I hope the administration will join with us in working to preserve and protect one of our most precious resources.

Mr. HOWARD. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. ROWLAND], a distinguished member of the committee.

Mr. ROWLAND of Georgia. I thank the distinguished chairman for yielding this time and thank the gentleman for all the work he has done on this bill. I particularly want to commend the gentleman from New Jersey [Mr. ROE] for his skill and ability and all that he has done in bringing this to fruition.

Also, the gentleman from Kentucky, Mr. Snyder, who is now retired, Mr. STANGELAND, all of the Members on the minority side and the majority side and their staffs for all of the hard work that they have done.

Mr. Speaker, I wish to engage in a colloquy with the gentleman from New Jersey, a short colloquy about the storm water runoff provision. The provisions in this bill require permitting for all of those systems, not points of runoff but systems, of population above 250,000 within certain time limit constraints. It also provides for permitting of those between 100,000 and 250,000, of those systems. We did not make any provisions for those that would require permitting of less than 100,000 unless there was some problem with the pollution source from those runoffs. Is that correct?

Mr. ROE. Mr. Speaker, will the gentleman yield?

Mr. ROWLAND of Georgia. I yield to the gentleman from New Jersey.

Mr. ROE. I thank the gentleman for yielding.

The gentleman's observation is absolutely correct.

Mr. ROWLAND of Georgia. I just wanted to establish that, I wanted it to be part of the language so that there would not be any confusion about that in the final analysis, and I thank the gentleman very much for his confirmation.

Mr. ROE. I thank the gentleman.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 2 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

(Mrs. ROUKEMA asked and was given permission to revise and extend her remarks.)

Mrs. ROUKEMA. Mr. Speaker, as an original consponsor of H.R. 1, I rise to express my continued strong support for swift passage of the Clean Water Act reauthorization bill. I think this is a good bill, and one worthy of the President's support. Toward this end, I will again urge the President to sign this legislation into law should it successfully pass both Houses in its present form.

H.R. 1 will authorize appropriations through 1994 for local sewage treatment construction, including money to establish State revolving loan funds. The revolving loan fund concept is a major reform and innovation of this legislation. These revolving funds will provide low-interest loans to communities in need of sewage treatment systems. Repayments of these loans will later be used to make new loans, providing a self-sustaining source of money for States to finance local water treatment construction.

This Federal funding is critical, since the Environmental Protection Agency has reliably estimated that $100 billion will have to be spent on sewage treatment to achieve clean water nationwide by the year 2000. There are presently 3,330 treatment plants nationwide which violate existing Clean Water Act requirements by providing little or no sewage treatment. This situation is intolerable. It does no good for Congress to mandate necessary water quality goals if there are no funds available to assist hard-pressed municipalities in meeting these standards. The only responsible course, therefore, is for Congress to appropriate Federal funds in the short term to keep water treatment projects on track, while setting up a self-sustaining loan fund which States can use in the future to meet waste water standards on their own.

The difficulties facing localities in meeting clean water standards are illustrated by the plight of my constituents in Wanaque, NJ. The people of Wanaque are facing exorbitant increases in local sewer costs because their local tax base is inadequate to underwrite the sewer treatment facilities needed to meet Federal standards. Although there are additional circumstances which compound Wanaque's dilemma, Wanaque remains a prime example of the problems facing hundreds of communities across the Nation.

The President's pocket veto of this same legislation at the end of the last session was especially disappointing when you consider that this bill is the culmination of 4 years of legislative negotiation and compromise. H.R. 1 is a consensus bill which passed unanimously in both the House and Senate last fall. It was supported last year by a diverse range of interests, including environmental, State, municipal, industry, and labor organizations. I believe that it is time for the administration to accept this bipartisan effort at making our Nation's waters safe for fishing, recreation, and drinking. I, therefore, urge my colleagues to pass H.R. 1 without delay, and I again call on the President to sign this important legislation.

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Mr. HOWARD. Mr. Speaker, I yield

2 minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, I take this time in order to engage in a colloquy with the gentleman from New Jersey [Mr. ROE].

Mr. Speaker, section 306 of the bill addresses the circumstances under which the Administrator of the EPA may establish alternative requirements under subsection 301(b)(2) of the Clean Water Act with respect to "best available technology" [BAT] requirements and under subsection 307 with respect to toxic pollutants. The language of the act is silent, however, with respect to the Administrator's authority to consider such variances from the "best practicable control technology" [BPT] requirements of subsection 301(b)(1). EPA currently has regulations in place which set forth the requirements for BPT variances on the basis of fundamentally different factors. These regulations allow the Administrator to address two important situations where consideration of alternatives to national BPT requirements may be appropriate. The first situation involves information and data that was not available for the Administrator to consider when the BPT requirement was adopted. The second situation involves a facility that was not subject to the BPT requirement when that requirement was adopted—for example, where the requirements of a permit have been established pursuant to a consent decree entered prior to enactment of the Water Pollution Control Act Amendments of 1972. Will the provisions of section 306 of the bill allow the Administrator to consider requests for alternatives to BPT requirements on the basis of fundamentally different factors in these two cases?

Mr. ROE. Mr. Speaker, will the gentleman yield?

Mr. WISE. I yield to the gentleman from New Jersey.

Mr. ROE. Mr. Speaker, the answer to the gentleman's question is "Yes." Section 306 does not alter in any way the Administrator's authority to consider requests for alternative BPT requirements on the basis of fundmentally different factors in the two situations you have identified.

Mr. WISE. Mr. Speaker, I thank the Chairman.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from Maryland [Mrs. BENTLEY].

(Mrs. BENTLEY asked and was given permission to extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, today we in the historic 100th Congress have the opportunity to complete some very important unfinished business from the 99th Congress. We once again have the chance to vote affirmatively and pass the Clean Water Act.

I commend the continued leadership of the Committee on Public Works and Transportation for working to have this important legislation to the House for consideration. During the 99th Congress, I had the opportunity to work as a member of the Committee on Public Works and Transportation in preparation of the Clean Water Act.

Enactment of the Clean Water Act will continue to assist the work ongoing by individual States. Maryland has joined with Pennsylvania, Virginia, and the District of Columbia in an effort to restore the Chesapeake Bay. The natural estuary is of major significance to these Mid-Atlantic States. Working together we can make a difference.

Measures are included in the Clean Water Act requiring States to develop plans for combating nonpoint source pollution, such as polluted runoff from city streets and farmlands. The Mid-Atlantic States have been working for the last decade to implement effective legislation needed to restore the bay.

Included in the legislation we have before us today is amending language which I successfully offered in committee during the previous Congress. The intent of the Bentley amendment was retained in the conference agreement. This language ensures that local and regional planning organizations would receive a portion of 40 percent of the State's funds necessary to implement the policy of controlling nonpoint source pollution.

In my home State of Maryland, some 50 percent of the pollution entering the upper Chesapeake Bay is a result of nonpoint source pollution. Enforcement of the Clean Water Act will play a vital role in significantly reducing half of the pollution entering our Nation's largest natural estuary.

The restoration of the water quality of our Nation's water supplies is of importance to all. This legislation takes into account efforts made by State and local governments.

Federal construction grant assistance is the cornerstone of each State achieving an effective environmental initiative needed to reduce water pollution. In Annapolis, MD, the Chesapeake Bay Program Office has contributed to much of the success of controlling water pollution. This program, under the direction of the EPA, has worked to coordinate Federal and State efforts in restoration of the Chesapeake Bay.

Studies have been conducted by the Chesapeake Bay Office to determine the impact natural and man-induced environmental changes have on the living resources of bay. Such studies are essential to cleaning up pollutants which are a result of nutrients, chlorine, acid rain, toxic waste, and heavy metals present in our water supply. A continuation of EPA programs such as this one will help us to achieve a cleaner envoronment. We need a dependable water supply to meet our water needs.

Enactment of the Clean Water Act will afford the Chesapeake Bay Office the opportunity to continue its important work.

Regional planning councils and local and State governments will play a more active role in development and implementation of water quality maintenance. Federal funds, distributed to States, will be passed on to local governments and those directly involved in water quality planning. Because of this provision, the Baltimore Regional Planning Council anticipates greater success in their work to reduce water pollution.

The Clean Water Act reauthorizes Federal funding for construction of local sewage treatment systems. These funds are necessary if we are to continue to clean up the environment.

Located in my home congressional district is Maryland's largest sewage treatment plant, the Back River Wastewater Treatment Plant. Currently there is a $400 million construction effort underway at Back River. The State of Maryland is doing its part to help make the necessary improvements at this wastewater treatment facility.

I am proud to say that private industries in the Second Congressional District of Maryland are also contributing to the effort to help restore our water supply. A new program will be established under this bill for cleaning up toxic "hot spots"—waters that will not meet water quality goals even after industrial dischargers have installed the best available cleanup technologies. Private industry working with government will succeed in eliminating pollutants which impose a threat to the environment.

Mr. Speaker, I urge my colleagues to join me and vote to pass H.R. 1, the reauthorization of the Clean Water Act.

Mr. HOWARD. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon [Mr. DeFazio].

(Mr. DeFAZIO asked and was given permission to revise and extend his remarks.)

Mr. DeFAZIO. Mr. Speaker, I rise today in support of H.R. 1, the Clean Water Act Amendments. I would like to commend Chairman Howard and Mr. Roe for their leadership and the members of the committee for their dedication and work on this vital legislation.

Sixteen years ago, with the adoption of the Federal Water Pollution Control Act, the Congress embarked upon an ambitious program to protect and, in many cases, reclaim our most precious natural resource—clean water.

This program has been tremendously successful. The Willamette River, which begins in my district and flows through the heart of western Oregon, is a notable example of the effectiveness of this program. In the midsixties, the Willamette was nearly devoid of aquatic life because of pollution.

Today, the Willamette provides more than 100 miles of prime recreational activity, abundant aquatic life and drinking water for thousands of Oregonians. Federal dollars could not be better spent than to duplicate the success of the rebirth of the Willamette 1,000 times across the Nation.

Despite the fact that many of the severe pollution problems of the 1960's and 1970's have abated, the job is not yet finished. Water contamination problems continue to plague the Nation: Sewage treatment, nonpoint pollution, and toxic pollution are particular problems. I believe that H.R. 1 responsibly addresses these issues.

All across the country, State, and local governments are anxious to enter into partnerships with the Federal Government to resolve local wastewater problems and meet the compliance deadline of July 1, 1988.

In my district, at least nine communities are in immediate threat of noncompliance, which will mean stiff penalties from EPA. The ability of communities like Coos Bay, North Bend, Drain, and Youncala to meet this deadline is dependent upon the legislation we are considering today.

As we all know, the Clean Water Act was unanimously approved by both Houses. This bill also received the support of industrial and environmental groups. State and local governments have expressed their need for such legislation. And the American people have made it clear that clean water programs should be a Federal priority.

However, the President disagreed. It is incomprehensible to me that this administration, in a misguided, pennywise pound-foolish attempt at budget cutting, would reject one of the Federal programs that has been proven to be so effective and necessary.

Mr. Speaker, we must send a strong message to the administration that environmental protection and public health are priorities of this Congress. I urge each of my colleagues to repeat the vote of last October and support the Clean Water Act.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. Dannemeyer].

Mr. BOEHLERT. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from New York.

(Mr. BOEHLERT asked and was given permission to revise and extend his remarks.)

Mr. BOEHLERT. Mr. Speaker, I join my colleagues on both sides of the aisle to urge another unanimous vote by this House to pass H.R. 1, the Clean Water Act Amendments. And while we're at it, let's resolve in the new year to complete amendments to the Clean Air Act.

There's no point in making H.R. 1 a political football. The President's veto of this legislation last October was ill advised, and an "aye" vote now is a fiscally responsible vote for cleaner waterways—nothing more, nothing less.

H.R. 1 is the product of at least 4 years of hard work. It enjoys support from business, from labor, environmentalists, and State and local governments. It is fiscally prudent, without avoiding our responsibilities to lakes and rivers, or the State and local governments we have charged to protect them.

So let's pass the clean water amendments and get on to the greatest unanswered environmental challenge—amendments to the Clean Air Act.

With at least 4 years of hard work, we reached agreement on clean water and Superfund. We've already spent 4 years on clean air. Can we finish the bipartisan work in the 100th Congress, which we began in the 98th, and built upon in the 99th?

Because let's face it—there aren't many things we can leave to our children when we're gone. But a clean environment—as good or better than the one we were given—is something we can leave them. That's a dream that everyone can suppport. That's a dream that's moved toward reality in this legislation. Let's all vote "yes" on clean water and move on to clean air.

Mr. DANNEMEYER. Mr. Speaker, I rise in reluctant opposition to this bill. I would have preferred to have voted for an amendment that would reflect the spending level that the President of the United States asked be accorded for this program, but unfortunately, such a rule was not made in order, and reluctantly, I intend to vote against the bill.

Milton Friedman has eloquently written about the conflict that we find presented to all of us in this legislation. Namely, in Democracy in America today, how do we reconcile the different claims between the special interests of the country that clamor for this spending and the taxpayers who pay the bill?

Up until now, and I suspect today, the people who will get the money, the representatives of local government who yearn for this money, who hire the lobbyists who come here to Capitol Hill to lobby the Members of Congress to approve this spending proposal, are going to win. The taxpayers of the country, the disorganized group that really want the budget balanced by cutting spending, not raising taxes, are the ones who are going to lose.

Let me observe to you what happens when we pass authorization bills in excess of what the President asked be done. Over the last 5 years of this Reagan Presidency, Congress has appropriated $10 billion more collectively for the category in which this program is located, category 300, than what the President has asked be done.

What happens when the authorization gets into law is the claim is made that it has been authorized, therefore, it must be in the public interest to adopt and the appropriations bill comes along and appropriations are passed in excess of what the President asked for, and we have the result of ever-growing deficits and ever-growing national debt.

Mr. HOWARD. Mr. Speaker, I yield 2 mintues to the gentleman from Maryland [Mr. CARDIN].

(Mr. CARDIN asked and was given permission to revise and extend his remarks.)

Mr. CARDIN. Mr. Speaker, as a freshman, I would like to take this opportunity to compliment my chairmen, the gentleman from New Jersey [Mr. HOWARD], the gentleman from New Jersey [Mr. ROE], and the leadership for bringing to the House floor at this time this critical piece of legislation.

The 99th Congress is to be congratulated for this fine reauthorization work. Thanks to the leadership, I and so many other Members of the freshman class will be able to go on record now in favor of this most important piece of legislation.

Communities throughout the Nation await the passage to move ahead with efforts to clean up their water.

In Maryland, we have just seen how important the original Clean Water Act was. The degradation of the Chesapeake Bay and its tributaries has begun to be reversed.

Saving the Chesapeake Bay as a vital national resource is a project dear to Marylanders, but one which can only proceed with close regional intergovernmental cooperation.

This act provides $13 million per year specifically to continue the work of the EPA and the States surrounding the bay.

I am particularly pleased to see that in this legislation, the success that we have realized in coordinating all levels of government in Maryland, Virginia, Pennsylvania, and the District of Columbia with efforts of the Federal Government and the private sector to clean up the Chesapeake Bay will be used as a model for work nationwide.

I look forward to the speedy passage of this legislation and the reauthorization of funds critical to the future of our Nation's waters.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. GILMAN].

(Mr. GILMAN asked and was given permission to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, I rise to reaffirm my strong support of the Clean Water Act and H.R. 1, the Water Quality Act pending before us today. I commend the gentlemen from New Jersey [Mr. HOWARD and Mr. ROE] the gentleman from Arkansas [Mr. HAMMERSCHMIDT], and the Committee on Public Works and Transportation, for reintroducing this measure and ensuring its immediate consideration in the 100th Congress.

As an initial cosponsor of H.R. 1, and a strong supporter of last years measure, I have continually supported every effort to make our Nation's waters potable, swimmable, and fishable once again. My district in the mid-Hudson Valley region of New York State is an area abounding with many beautiful lakes and rivers, in particular Greenwood Lake, the upper Delaware, the Ramapo, and the Hudson Rivers. Consequently, I am especially concerned about the protection of these irreplaceable natural resources. Nor am I alone in my concern.

Just these months during the district work period, I spoke with many constituents who expressed concern about the condition of our lakes and rivers and specifically what Congress is doing to reauthorize and strengthen the Clean Water Act, upon which the future of our lakes, rivers, and waterways rests.

Some of the fine provisions of H.R. 1 are that it authorizes $2.4 billion per fiscal year for fiscal years 1986-88, and $1.2 billion per year for fiscal years 1989-90, for local sewage treatment construction grants. Additionally, H.R. 1 authorizes annually through fiscal year 1990: $22.8 million for research activities and investigations on the causes and effects of water pollution, $75 million for grants to State and interstate agencies to assist in administering water-pollution-control programs, such sums as may be necessary for grants for developing and operating areawide waste-treatment management planning processes, $30 million for restoration of lakewater quality, and $135 million for general administration by the Environmental Protection Agency [EPA]. This legislation also reauthorizes much-needed construction-grant funds through fiscal year 1990, adopting a new formula for distributing funds among the States. H.R. 1 also requires each State to establish a water-pollution-control revolving fund for providing construction assistance to municipalities and intermunicipal and interstate agencies for public treatment works. A new program to control nonpoint sources of pollution would gain an allocation of $400 million.

H.R. 1 extends the compliance dates to require dischargers to achieve the best available technology [BAT] and best conventional technology [BCT] for all toxic, conventional, and other pollutants as expeditiously as practicable, but no later than 3 years after the date applicable effluent limitations are established, and in no case later than March 31, 1989. Importantly, EPA is required to issue final regulations establishing effluent limitations for direct dischargers and limitations requiring pretreatment for the remaining toxic pollutants: Pesticides, organic chemicals, plastics, and synthetic fibers. This legislation also elevates the penalties for dischargers or individuals who knowingly violate or cause violation of certain requirements, setting penalties of up to $50,000 per day of violation and/or imprisonment for up to 3 years.

For clean lakes, H.R. 1 requires States to submit biennial reports and EPA to prepare a national report on lakewater quality. Additionally, it would authorize $15 million for acid mitigation and $40 million for lakewater demonstration projects. Two of these demonstration projects would be conducted at Greenwood Lake, in my district, which serves the tristate area.

During my travels across my district, apprehensions about the lack of moneys to continue the Clean Water Act were expressed across the board by both environmentalists and industrialists. I feet it is of utmost importance that we all realize that this is not an issue of environmentalists versus industrialists and that this act is not merely a proposal to perpetuate beautiful scenery and holiday vacation resorts; this measure provides for the protection of a resource which is a human necessity and beneficial to all our citizenry.

As all Members already know, this legislation was adopted by both Chambers during the 99th Congress and sent for approval to the President. At that time I joined my colleagues in writing a letter urging the President to please accept this legislation. However, he denied his approval, allowing the bill to die while Congress was adjourned. The President stated that the act was unnecessarily expensive. What will we pay to restore our lakes, rivers, and waterways when it is too late? I urge you now, as I have in the past, to support this legislation when it is brought to a vote. As we begin this historical 100th Congress we must reaffirm the idea of service for the citizens of these United States and adopt this resolution which will not only benefit all the inhabitants of this land but will also perpetuate the great beauty of the United States as we know it today.

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Mr. HOWARD. Mr. Speaker, I yield

3 minutes to the gentleman from Hawaii [Mr. AKAKA].

(Mr. AKAKA asked and was given permission to revise and extend his remarks.)

Mr. AKAKA. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I would like to engage the chairman of the Subcommittee on Water Resources, who presided over the conference in the last session, in a discussion about a provision in the conference report for the Water Quality Act of 1986 intended to help three cane sugar processing mills along the Hamakua coast of Hawaii. The conference report provision I have in mind appears on page 124 of House Report 99-1004.

The sugar mills to which this conference report language applies are located on the Hamakua coastline of the Island of Hawaii. No other sugar processing plants in Hawaii or the continental United States are similarly positioned. As a result of their location, these cane sugar mills must incur unusually high costs to comply with the total suspended solids effluent limitations set by the Environmental Protection Agency.

Mr. Speaker, I believe that Congress has a responsibility to recognize the unique station of these sugar mills and to require EPA to reconsider their effluent limitations requirements in light of the extenuating circumstances.

Mr. ROE. Mr. Speaker, will the gentleman yield?

Mr. AKAKA. I yield to the subcommittee chairman.

Mr. ROE. I thank the gentleman for yielding.

Mr. Speaker, I agree with the gentleman from Hawaii. The conference report provision to which Mr. AKAKA refers, which I authored, recognizes the plight of these sugar mills and expresses Congress' strong expectation that EPA will provide environmentally sound administrative relief to the Hamakua coast sugar companies based on the opportunity created by the conference report language.

The intent of the language is to authorize and direct EPA to reassess the reasonableness of the effluent limitations imposed on the three sugar mills in light of their unique circumstances. In particular, the conference report authorizes EPA to withdraw temporarily the effluent limitations currently imposed on the three Hamakua coast sugar mills, issue a best professional judgment NPDES permit to the mills, and then promulgate new effluent limitations for the Hamakua coast cane sugar mills which provide for complete suspension of the total suspended solids limitations.

Mr. AKAKA. Mr. Speaker, I would appreciate it if the gentleman from New Jersey would explain in greater detail how Congress intends EPA to proceed to provide the necessary relief for the Hamakua coast mills.

Mr. ROE. Mr. Speaker, if the gentleman would yield, I would be happy to do so. The committee continues to expect that EPA will reassess the reasonableness of the effluent limitations imposed on the three Hamakua coast cane mills in light of their unique circumstances. The committee feels that a more pragmatic standard for effluent limitations than has been applied in the past is appropriate and expects EPA to consider the unique geographical location of these mills and the relationship between the costs of attaining a reduction in effluents and any effluent reduction benefits derived, including a comparison of the costs of effluent reduction with any benefits of the reduction to the receiving waters. Such an analysis should result in a standard where no total suspended solids effluent limitation is imposed.

Mr. AKAKA. I appreciate the chairman's response. For the record, I would like to provide additional background to explain this situation. All Hawaiian cane sugar processing mills use water to wash field dirt from sugar cane after the cane is harvested, and before the cane is processed. The amount of soil collected in the washwater, referred to as total suspended solids, depends to a great extent on the geographic location of the sugar cane fields because the amount of soil which must be washed from the sugar cane increases with greater rainfall.

The Hamakua coast cane sugar mills are located in an area that experiences unusually heavy annual rainfall and are situated on the coast at a much lower elevation than their sugar cane fields. As a result, it is not feasible for the mills to use the washwater, which contains a relatively high concentration of total suspended solids, for field irrigation. Rather, the washwater must be filtered by hydroseparators and run through settling ponds before discharge to the Pacific Ocean. The costs associated with this effluent control technology have crippled the companies economically, threatening to completely shut them down.

Environmental studies on the effects of sugar cane washwater discharges to the Pacific Ocean show that the environmental benefit of limiting the amount of total suspended solids is minimal because the ocean area affected is largely dependent on tidal stage, wind, and the settling velocities of total suspended solids contained in the washwater, rather than on the amount of total suspended solids in the washwater discharge. In fact, since EPA imposed effluent limitations for total suspended solids on the mills, the zones of measurable impact from their washwater discharges have not changed significantly, despite a decrease in total suspended solids discharge on the part of the mills by a factor of 10. Similar zones of impact, or brown spots, are created naturally along the Hamakua coast from over 50 streams.

For over 4 years, the two sugar companies have requested EPA, without success, to reconsider the application of total suspended solids effluent limitations to the companies' wastewater discharges to the Pacific Ocean. Despite clear evidence that, in this case, the relationship between the costs of attaining a reduction in total suspended solids and the environmental benefits derived is not reasonable, EPA has denied the companies' requests for a waiver from total suspended solids effluent limitations because, among other things, EPA believes it lacks authority to consider the effect of a discharge on the receiving waters.

Mr. Speaker, I thank the chairman for his assistance on this matter, and I yield back the balance of my time.

Mr. HOWARD. Mr. Speaker, may I inquire as to how much time the gentleman consumed?

The SPEAKER pro tempore (Mr. FORD of Tennessee). The gentleman from New Jersey [Mr. HOWARD] has consumed 25 minutes of his 30 minutes. There are 5 minutes remaining.

Mr. HOWARD. And do I understand, Mr. Speaker, that the gentleman from Hawaii [Mr. AKAKA] consumed 2 minutes?

The SPEAKER pro tempore. The gentleman is correct.

The gentleman from Arkansas [Mr. HAMMERSCHMIDT] has 10 minutes remaining.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. BILIRAKIS].

Mr. BILIRAKIS. Mr. Speaker, I appreciate the gentleman from Arkansas [Mr. HAMMERSCHMIDT] yielding time to me.

Mr. Speaker, we all know that this is an issue of overwhelming importance to the environment of our great land. The Clean Water Act amendments represent 4 hard years of consensus achieved in the areas of water pollution and sewage treatment. This consensus was demonstrated by a unanimous vote at the close of the last Congress.

There have been questions raised as to cost, and the role of the States in meeting nationwide standards. The Washington Times printed a column in December outlining these concerns. Charges have been made that grants are given on political, rather than environmental grounds. The performance of pollution treatment facilities under Federal permits has also been brought into question. I am sensitive to these considerations, however, it is high time that we translate our concern into action by supporting H.R. 1. This does not mean that we must be any less vigilant, or unyielding in upholding the standards of the program. The future of our environment, and our well being, depends on it.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. SHUSTER], a distinguished member of our committee.

Mr. SHUSTER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, may I say to the Members of the House that I do not suppose there are very many Members of this body who have a more fiscally conservative voting record than this Member. Yet I rise in strong support of this legislation because I believe it is one of the most meritorious programs we will be dealing with in this Congress. In fact, clean water is not an expenditure of Federal funds; clean water is an investment in the future of our country and an investment in the communities which we represent.

For those reasons, Mr. Speaker, I urge my colleagues on both sides of the aisle to vigorously support this legislation.

Mr. HOWARD. Mr. Speaker, I yield 1 minute to the gentleman from Maryland [Mr. DYSON].

(Mr. DYSON asked and was given permission to revise and extend his remarks.)

Mr. DYSON. Mr. Speaker, I again would like to applaud the gentleman from New Jersey [Mr. HOWARD], the gentleman from New Jersey [Mr. ROE], the gentleman from Arkansas [Mr. HAMMERSCHMIDT], and the gentleman from Minnesota [Mr. STANGELAND] for their efforts in bringing this Clean Water Act to the floor once again. I, too, urge my colleagues to support the bill today.

I believe, because of their efforts and the help we have received from the Appropriations Committee, that our Chesapeake Bay is improving. Our bay grasses and the rockfish are coming back, and I think the $52 million contained in this bill will go a long way in helping us restore the Chesapeake Bay.

I wish to express my unwavering support of this vital piece of legislation and urge my colleagues, not only my good friends from the 99th Congress but also my new friends in the 100th Congress, to add their votes of support to this vital legislation.

This legislation will benefit every State in the Union and it will have a great impact on each and every district. Our overwhelming vote of support on this act during the last Congress, along with that of our colleagues in the other Chamber, left no doubt that we are committed to passing this bill to end the threat to our citizens health from the pollution that is choking our rivers and waterways and destroying the valuable resources they contain.

Mr. Speaker, this legislation also contains a crucial section that is of paramount importance in the Federal, State, and local efforts to clean up and restore America's greatest estuary, the Chesapeake Bay. On January 3, 1985, I introduced legislation which would provide $52 million over the next 4 years to revitalize this important and historical bay. That legislation has been incorporated into Clean Water Act in front of us today and I wish to thank my distinguished colleagues for supporting the Chesapeake Bay initiative which will reverse decades of neglect and decline.

I know that many of my colleagues have enjoyed afternoons on the Bay sailing, fishing, exploring the wetlands and hunting in the fall. This money will permit us to further restore the water and the blue crabs, oysters, striped bass, and waterfowl that use the bay as their spawning grounds or natural habitats. This legislation will help ensure that future generations will be able to enjoy the bay and its many resources as much as we have enjoyed them.

Last year's Clean Water Act was vetoed because the President objected to the spending level we set for sewage treatment plant construction. I have no doubt that veto would have been overridden had we not adjourned. Construction and upgrading of sewage treatment plants is one of the most important portions of this bill. We must use the $18 billion sought by this legislation to guarantee our continued success in achieving our goals of fishable and swimmable waters and the elimination of pollution discharge into our waters.

The sewage treatment plant construction fund will permit us to keep future pollution out of our rivers, lakes, streams, and bays. We cannot authorize money to clean up our waterways with one hand and take away money to keep them clean with the other. It is imperative that we pass this bill and that we stand ready to override a veto if necessary.

Once again, it is time to tell America that we care about water pollution and its danger to human health and to the environment. We must support H.R. 1, the Clean Water Act, as reported to this body by the Committee on Public Works and Transportation.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 1 minute to the gentleman from Washington [Mr. MORRISON].

(Mr. MORRISON of Washington asked and was given permission to revise and extend his remarks, and to include extraneous matter.)

Mr. MORRISON of Washington. Mr. Speaker, I appreciate the gentleman's yielding time to me.

In the Western United States there is tremendous sensitivity to anything affecting water rights. Concerns have been expressed as to the implications of the provisions of this Clean Water Act as they relate to Indian tribes and water quality and quantity.

My colleague, the gentleman from Washington [Mr. FOLEY], and I have raised these questions and find answers in the form of a memorandum addressed to MORRIS K. UDALL, chairman of the Committee on Interior and Insular Affairs. This memorandum includes the following conclusions:

> There is nothing in the existing law nor in the proposed amendments in H.R. 1 which in any way expands the substantive rights of an Indian tribe to a quantity or quality of water. In fact, section 101(g) of the existing law which is specifically made applicable to Indian tribes by the proposed Indian provisions of H.R. 1 specifically preserves the allocation or quantification of water rights which are otherwise legal under State law.

Mr. Speaker, under my request to include extraneous matter, I submit the following memorandum entitled "Indian Provisions of the Clean Water Bill," as follows:

MEMORANDUM

To: Morris K. Udall, chairman, Committee on Interior and Insular Affairs.

From: Ducheneaux/Broken Rope.

Subject: Indian provisions of the clean water bill.

You have directed us to address the objections raised by constitutents of Mr. Foley and Mr. Morrison to the Indian provisions, of H.R. 1, legislation to amend the Clean Water Act. As you know, you strongly supported the inclusion of those provisions in the bill passed and vetoed by the President in the 99th Congress.

It appears that the objections being raised to the Indian provisions assert that these provisions either—

(1) expand the substance of existing Indian water rights;

(2) expand the mechanism available to Indian tribes to enforce those rights both within and without their reservation boundaries; or

(3) both.

CLEAN WATER ACT

I. Substance of Indian water rights

There is nothing in the existing law nor in the proposed amendments in H.R. 1 which in anyway expands the substantive rights of an Indian tribe to a quantity or quality of water. In fact, section 101 (g) of the existing law which is specifically made applicable to Indian tribes by the proposed Indian provisions of H.R. 1, specifically preserves the allocation or quantification of water rights which are otherwise legal under state law.

In like manner, there is nothing in the existing law or in the proposed amendments which impairs or is intended to impair any way existing substantive water rights of any Indian tribe.

Many Indian tribes have certain water rights deriving from treaties or other Federal law wholly apart from the Clean Water Act. These rights, often undetermined, include rights to certain quantities of water and rights to a certain quality of water. It is beyond question that Indian water rights include a right to some quantity of water.

There seems to be some doubt that this right extends to a right to a certain quality of water and the case law on this is somewhat sparse.

However, in the 1980 decision of the Federal district court in *U.S. v. Washington*, 506 F. Supp. 187, this very issue was addressed. The tribes asserted that their treaty fishing right included the right to environmental protection.

"... It is well established that the scope of an impliedly-reserved right may not be broader than the minimal need which gives rise to the implied right ... Thus, the scope of the State's environmental duty must be ascertained by examining the treaty-secured fishing right rather than by selecting a desirable standard that has been imposed by Congress in a different context .... The treaties reserve to the tribes a sufficient quantity of fish to satisfy their moderate living needs .... That is the minimal need which gives rise to an implied right to environmental protection of the fish habitat. Therefore, the correlative duty imposed upon the State (as well as the United States and third parties) is to refrain from degrading the fish habitat to an extent that would deprive the tribes of their moderate living needs."

While the Circuit Court subsequently vacated the lower court's summary judgment on the environmental issue and remanded the case, it did so solely on the grounds of the proof necessary to show that the State had violated the tribes' fishing right through environmental degradation.

See also *U.S. v. Anderson* (1979), where the federal court held that the reserved water right included a minimum stream flow to preserve native trout. It also addressed a water quality issue, holding that this right required that the water temperature be maintained at 68 degrees F. or less for fishing purposes.

As noted, these water rights, whether asserted as to quantity or quality or both, exist separate and apart from the Clean Water Act. Either the tribes or the United States or both can have recourse to the Federal courts to enforce those rights.

Enactment of H.R. 1, with the Indian provisions will not expand or diminish any water rights Indian tribes may have nor will it expand or diminish any liability the United States, states, or third parties may have for impairing those rights.

II. Enforcement conflict resolution mechanisms.

There seems to be a concern that enactment of H.R. 1 with the Indian provisions will somehow expand or strengthen the power of an Indian tribe to act to protect its water rights, whether as to quantity or quality. That is not accurate.

A. Indian tribes are self-governing, exercising limited powers of inherent sovereignty within their reservations.

B. In the exercise of that power, Indian tribes have the right to regulate lands and other natural resources within the reservation, including non-Indian owned fee lands or resources.

C. States have no power to assert its laws within an Indian reservation to regulate lands or other resources unless Congress has specifically so provided. In fact, in *Washington v. EPA*, the Circuit Court upheld a decision of EPA denying the State environmental regulatory jurisdiction under the Resource Conservation and Recovery Act, over Indian lands. The court said, "States are generaly precluded from exercising jurisdiction over Indian Country unless Congress has clearly expressed an intention to permit it.".

D. Conversely, Indian tribes, except in extremely limited cases, have no power to project their regulatory authority beyond the boundaries of the reservations.

E. The Clean Water Act establishes Federal standards for water quality. States are empowered to assume primacy for water quality regulation within the state by developing and having approved by EPA a Plan establishing State water quality standards which are no less stringent than those adopted by EPA. States may then issue State permits permitting certain water pollution activities which meet that State's water quality standards.

F. Where two or more states, sharing a common water body, have plans approved by EPA with differing standards of water quality, the Act does provide mechanisms for resolving inter-state conflicts. However, there is nothing in the existing Act or in the proposed amendments which gives EPA the power to force one state to changes its approved water quality standards or those valid activities done in accordance with its plan in order to accommodate the water quality needs of another state or states. The aggrieved state or states might have recourse against the offending state through litigation under other applicable law.

G. Recognizing the existing right of Indian tribes to regulate their environment within their reservation boundaries, the Indian provisions in H.R. 1 would permit those Indian tribes who have met certain exacting standards, to assume primacy for water quality regulation within their reservations. The provisions provide that tribes, for limited purposes of the Act, would be treated as a State.

H. The Indian provisions of H.R. 1 require the Administrator of EPA to promulgate regulations to specify how Indian tribes will be treated as States for purposes of the Act. In doing so, he is required to consult with affected States sharing common water bodies with tribes and to provide a mechanism for the resolution of unreasonable consequences that may arise as a result of differing water quality standards that may be set by States and tribes. However, just as in inter-state conflicts, nothing in that requirement, in the existing Clean Water Act, or in any other provision of H.R. 1 gives the EPA administrator or the tribes the power to force states to alter their approved water quality standards or their operations under an approved Plan in order to accommodate higher tribal water quality standards. Nor is there anything in the existing law or proposed amendments which would permit Indian tribes to project their internal regulations beyond the boundaries of their reservation.

We can find nothing in the Clean Water Act, as proposed to be amended by H.R. 1 which would in any way expand substantive Indian water rights or which would expand or enhance the power of Indian tribes to affect off-reservation activity which might degrade or despoil on-reservation water quality.

January 7, 1987.

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Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. I thank the gentleman for yielding me this time.

Mr. Speaker, I first want to extend my thanks to the chairman of the full committee, the chairman of the subcommittee, the ranking minority members of the full committee and subcommittee, Mr. HOWARD, Mr. ROE, Mr. HAMMERSCHMIDT, and Mr. STANGELAND, respectively, for their help in effecting this compromise which, hopefully, will go forward and protect the interests of all parties who were concerned about the dumping of gypsum in the Mississippi River and the potentially hazardous effects of that dumping.

The question I have of the gentleman from New Jersey [Mr. ROE] is, Is it your understanding, sir, that this agreement will go forward in the next couple of weeks and that you will lend all of your good graces and efforts to helping effect this compromise, push it through the House of Representatives, and the Senate, and that we will attempt to remedy the situation that confronts us now?

Mr. ROE. If the gentleman will yield, I will say the gentleman is absolutely correct. We have joined with him in the fullest support of achieving this goal. Mr. HOWARD has already spoken to the leadership and they are talking about the week of the 20th.

Mr. LIVINGSTON. I appreciate the gentleman's cooperation.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. GALLEGLY].

Mr. GALLEGLY. I thank the gentleman for yielding me this time.

Mr. Speaker, I would like to engage the gentleman from Arkansas in a colloquy at this time concerning section 203 of H.R. 1, the Water Quality Act of 1987.

In my district, the Las Virgenes Municipal Water District received a construction grant after its plans, specifications, and estimates were approved on several occasions by EPA and the State of California. Several years later and after final completion of the construction project, a review of the project has resulted in a recommendation to disallow some of the project's cost because the total amount of expected sludge generation has not been realized. By EPA's own program staff admission, there is no evidence of waste, fraud, or abuse. Nonetheless, the Las Virgenes district has been forced to enter into the expensive process of refuting this disallowal.

Has the committee run into problems similar to this in any other areas of the country with respect to EPA Construction Grants Program decisions?

Mr. HAMMERSCHMIDT. If the gentleman will yield, yes we have and that is why the committee included in our House-passed version of this legislation and why the conferees included in the conference report and H.R. 1 the language of section 203. This section provides that, before taking final action on certain plans and specifications, the Administrator shall enter into a written agreement establishing which items of a proposed wastewater treatment project are eligible for Federal grant assistance. The section also provides that the administrator may not later modify his eligibility determinations unless they are found to have been made in violation of Federal law.

Mr. GALLEGLY. Would the distinguished gentleman from Arkansas [Mr. HAMMERSCHMIDT] agree to work with me and with the chairman of the Water Resources Subcommittee to conduct oversight on the extent to which problems such as those experienced in my district concerning the Las Virgenes Municipal Water District may need to be addressed further by congressional action?

Mr. HAMMERSCHMIDT. Yes, I would certainly be pleased to lend my support to the request of my esteemed California colleague. I am sure the gentleman will receive the cooperation of our distinguished new chairman of the Water Resources Subcommittee, [Mr. NOWAK] and I am sure the gentleman from Minnesota [Mr. STANGELAND] as well.

Mr. GALLEGLY. I thank the gentleman for this clarification and also for his willing assistance.

Mr. BIAGGI. Mr. Speaker, I rise in full support of H.R. 1, a bill to reauthorize the Clean Water Act.

Like so many of my colleagues I was deeply distressed last year when identical legislation to the measure before us today was vetoed after Congress had adjourned. This bill is absolutely vital if our Nation is to effectively address the very serious water pollution problems that our Nation faces. I am extremely pleased that this legislation is being acted on at the earliest possible moment during the 100th Congress and I want to commend Speaker WRIGHT for his strong and responsible leadership in this matter, along with the two distinguished gentlemen from New Jersey, Messrs. HOWARD and ROE.

This measure authorizes $18 billion over an 8-year period for sewage treatment; $400 million over 4 years to control nonpoint sources of pollution; generally prohibits lessening of pollution standards in existing pollution control permits; establishes a plan to issue permits for storm water discharges; extends certain compliance deadlines; provides greater controls for toxic pollutants; and establishes programs to monitor and control pollution in the Great Lakes, in estuaries, and in lakes.

Mr. Speaker, we have an obligation not only to ourselves but also to future generations to protect our Nation's environment from pollution. This bill is totally consistent with that vital objective and I strongly urge my colleagues to join me in supporting it.

Mr. TOWNS. Mr. Speaker, I want to offer my support for H.R. 1, the Clean Water Act. As a member of the House-Senate conference committee on this legislation in the 99th Congress, I am very pleased to see that the chairman of Public Works has acted so quickly in bringing this measure to the floor in the 100th Congress.

There is no question that this reauthorization measure is needed. States and localities have unanimously urged passage of this legislation to save the Nation's water and sewerage systems. For example, in the State of New York, the question of support for the cleanup of acidified lakes and coverage for utility relocation costs are at issue. I would hope that my colleagues will continue to demonstrate their overwhelmingly support for the Clean Water Act. In the 99th Congress, we were able to muster enough votes to clearly override a Presidential veto. I hope that we will again demonstrate our strong support for this much needed legislation.

Mr. JONES of North Carolina. Mr. Speaker, I rise today in strong support of H.R. 1, the Water Quality Act of 1987, and urge its prompt passage. Mr. Speaker, as we all know, this is the second time that the House has convened to express its support for this conference report on the Clean Water Act. It is only through the hard work and persistence of the public works leadership, particularly Chairman HOWARD and Chairman ROE, that we are here today to demonstrate once again our commitment to improving our Nation's water quality, and for their diligence they are to be commended.

Mr. Speaker, as my colleagues may note, H.R. 1 was referred both to the Public Works Committee and the Merchant Marine Committee, reflecting the jurisdiction of the Merchant Marine Committee over coastal and marine pollution generally and over fish and wildlife, wetlands and habitat. This referral recognizes the intrinsic relationship between water quality matters and living resource matters and will, in my own view, enable the House to fashion legislative recommendations that will closely integrate Federal programs for improved water quality, productive living resources and habitat and cost-effective pollution control. In particular, this referral recognizes our jurisdiction over the following sections of the conference report:

Section 103, the Chesapeake Bay Program;

Section 104, the Great Lakes Program;

Section 105, research on the effects of pollutants;

Section 303, discharges into marine waters;

Section 311, marine sanitation devices;

Section 317, the National Estuaries Program;

Section 406, sewage sludge;

Section 508, special provisions regarding certain dumpsites;

Section 509, ocean discharge research project; and

Section 510, San Diego, CA.

Many of the provisions of this legislation are of key interest to my committee, such as the Estuaries Program and the provisions on ocean disposal of sewage sludge, the Great Lakes and the Chesapeake Bay. These provisions, and the Federal Water Pollution Control Program in general, represent what may be one of the most important programs for ensuring the long-term health and integrity of our coastlines and marine resources. Because of their continued contributions to this program, Chairman HOWARD and Chairman ROE deserve our praise.

Mr. Speaker, I want to take one moment to express my strong support for section 317, the estuarine provisions in the bill. Only recently has attention come to focus on the importance of the variety of goods and services to society provided by estuarine systems. We use their waters to cool our factories, accommodate our waterborne traffic, shelter our coastal populations, and serve as sinks for our pollution. By 1990, the Council on Environmental Quality estimates that over 75 percent of our population will live within 50 miles of our coasts.

The Committee on Merchant Marine and Fisheries believes that the long-term integrity of our Nation's estuaries and near shore areas are vital to our commercial and recreational fisheries and to good coastal resource management. In my district alone, for instance, virtually the entire shoreline area is a major estuary, upon which the coastal fishing and recreation economy sorely depends. Its continued health and wise management is a fundamental long-term interest to our citizens. Only by careful planning can we avoid the fate that otherwise awaits these special areas. Only with great care can we ensure that our stocks of fisheries and our habitats remain vigorous. And only by timely action can we fashion development policies that avoid unnecessary degradation before it occurs. As chairman of the Merchant Marine Committee and as a Congressman with a great interest in estuaries, I applaud the inclusion of these estuarine provisions and I intend to exercise vigorous oversight of their implementation.

I would like to comment briefly on several aspects of section 317 as it pertains to the National Oceanic and Atmospheric Administration [NOAA]. First, NOAA's broad coastal and marine mandates argue persuasively for a close partnership between it and EPA in fulfilling the objectives of section 317. I intend to follow closely the implementation of the program to ensure that both agencies integrate their existing capabilities to promote the success of the program and to maximize the effectiveness of the overall Federal effort. In identifying troubled estuaries and in fashioning and implementing research programs and management plans, I expect NOAA to step forward in a cooperative, constructive effort to contribute its own extensive capabilities to the program. The creation of an estuarine programs office within NOAA, which our committee established in S. 991 in the last Congress, is a constructive first step toward this end.

Second, I would expect a significant effort is devoted to the implementation aspects of the program. The success of a program turns not only on the genius of its objectives but the strength of its implementation. The success of the National Estuaries Program will turn not only on the quality of its planning products but the commitment of its participants. Several implementation systems are already in place that should be utilized fully, including State coastal zone programs. These programs provide a well-suited administrative and legal infrastructure at the State and Federal level to implement the comprehensive management plans developed pursuant to section 317. These programs should be used to the fullest in the implementation phase of the program.

Mr. Speaker, I believe that this conference report represents a firm commitment to improved environmental quality that deserves our full support. I pledge the efforts of my committee to exercise continuous, constructive oversight of the elements of the program within our jurisdiction. I urge the prompt passage of H.R. 1.

Mr. ECKART. Mr. Speaker, today the House will consider H.R. 1, the Clean Water Act, one of the most important pieces of legislation this body will take up during this session. Unanimous passage of this bill for the second time will assure the American people that the battle against water pollution is one of our top legislative priorities. Americans across the Nation will benefit from the public law resulting from this legislation, with or without the President's cooperation.

Included in the Clean Water Act, are provisions of the Great Lakes Management and Research Act which I introduced in June of 1985. My legislation sets specific guidelines to address the pollution problems plaguing the Great Lakes, and coordinates Federal efforts in locating toxics, defining their sources, and conducting demonstration projects to clean them up.

The Great Lakes provide 95 percent of our fresh surface water—equivalent to about 20 percent of the entire world's freshwater. Fifteen years ago, these waters were dying. Their grave condition sparked unprecedented levels of cooperation between the United States and Canada. With this legislation, we have a real chance of seeing a clean, safe and economically viable Great Lakes region.

Mr. RAHALL. Mr. Speaker, after several years of intensive effort, as well as one Presidential veto, it gives me great pleasure to rise in support of H.R. 1, legislation to reauthorize the Clean Water Act. Among the many provisions of this bill is one which seeks to provide an incentive to the coal industry to remine abandoned coal mine lands.

It is rare we are able to enact legislation such as this provision which so clearly dovetails efforts to develop our coal resources with those aimed at mitigating environmental damage. Throughout the Appalachian region abandoned coal mine lands exist which, due to erosion and acidic discharges, pose a serious threat to water quality.

While the 1977 surface mining law created an Abandoned Mine Reclamation Program to address this situation, the funds raised from industry to implement reclamation projects will never be sufficient to address more than 10 to 20 percent of the Nation's abandoned coal mine sites. Because many of these abandoned coal lands still contain valuable coal deposits, industry has made an effort to remine them, and as such, reclaim the sites.

However, in many instances, coal remining is not economically and technically feasible because industry becomes liable for treating the preexisting water discharges under stringent national effluent guidelines. This coal remining provision will enable industry to enter abandoned coal mine sites and engage in mining under modified water quality standards established on a case-by-case basis. The end result of this effort will be the reclamation of the site and as such, as improvement in water quality over that which existed at the site prior to remining.

As the author of this coal remining provision, I would note that a rather detailed legislative history has been established to assist in its implementation. In this regard, interested parties should refer to the Congressional Record of July 23, 1985, at which time I provided a full explanation of the provision during the debate on H.R. 8, the House-passed version of S. 1128 during the 99th Congress, as well as to the colloquy between the chairman of the committee with jurisdiction over the Surface Mining Control and Reclamation Act of 1977, Morris Udall, and myself conducted during the 98th Congress, which can be found in the Record of June 26, 1984, when a similar version of this provision passed the House as part of H.R. 3282.

This legislation also reauthorizes the EPA construction grants program for sewage treatment facilities through fiscal year 1990. Under the allocation formula for these funds, this bill would provide West Virginia with almost $40 million on an annual basis, placing the State among the top 20 State recipients under this program. The importance of this assistance cannot be underestimated as there remains many communities in West Virginia still in need of adequate wastewater treatment facilities.

Mr. GEPHARDT. Mr. Speaker, I rise in strong support of H.R. 1, the Water Quality Act of 1987. This legislation, a compromise that won the unanimous support of both Houses of Congress last year, deserves swift enactment.

As we approach this century's final decade, it is clear that our environmental remains hard-pressed. Since Congress passed the Federal Water Pollution Control Act of 1972, we have abated some of the worst dangers. Nevertheless, new growth continues. Protection still lags. The pressures we put on our surroundings escalate.

While we have made much progress, we have learned also where we need to make more. We have controlled many but not all of our discharges. Urban and agricultural runoff still put poisons in our waters. States report increased levels of highly toxic compounds in rivers and streams. Many of our bays and waterways are still unacceptably dirty.

This legislation will continue the essential control programs, while gradually turning over responsibility for sewage plant construction to local governments. And it takes new action on problems like nonpoint source pollution and toxics.

This legislation is a sensible compromise. It will enable us to treat our waterways less as extenions of our sewer systems and more as the treasures that they are and that should be passed on to the next generation intact.

We should not allow a false economy to prevent the cleanups that need to be made. We can avoid the damages that may prove costly or impossible to clean up later. The funding levels in this bill are minimal when compared with the need.

I commend so many of my colleagues who have worked so hard on this legislation and urge the President to work with the Congress.

Mr. STUDDS. Mr. Speaker, I rise in strong support of the bill. Late last year, the House of Representatives approved this legislation by a unanimous vote, and we should do so again today.

The 100th Congress is only a couple of days old, but the Clean Water Act Amendments of 1986, now known as the Clean Water Act Amendments of 1987, will be among the most significant environmental and public health related bills we will consider during this term.

The original Clean Water Act, approved 15 years ago, embodied a commitment on the part of a generation of Americans to turn over to its children and grandchildren a nation whose lakes, streams, and coastal waterways would sustain, rather than threaten, human health and marine life. That job is not yet done. The President would have us give up now, because the cost is great and progress is slow, but his weariness is not shared by the American people or by their Representatives from either political party in the Congress.

As a member of the House Committee on Merchant Marine and Fisheries, I have a particular interest in the many sections of this bill that fall partly or wholly within the committee's jurisdiction. Of primary interest is section 317, which will create a National Estuaries Program within the EPA. This program recognizes the importance of estuaries to fish and wildlife resources of vast commercial, recreational, and esthetic importance. Serious water quality problems have arisen in past years in major estuaries including Buzzards Bay, Narragansett Bay, Long Island Sound, and Chesapeake Bay.

Under the legislation, the administrator will be authorized to spend up to $48 million over 4 years in matching grants to State governments for the purpose of encouraging necessary research, planning, and cleanup activities in estuarine areas. Funds allocated under the program shall be used in accordance with plans developed by specially appointed management conferences that will include appropriate Federal, State, and local officials, and interested private parties.

Other sections of the bill of interest to our committee include those dealing specifically with pollution in Chesapeake Bay and the effects of that pollution on striped bass; the creation of Great Lakes National Program offices within both EPA and NOAA; directed research into the problem of bioaccumulation of toxics in fisheries; the management of sewage sludge; and other marine pollution related matters.

As a New Englander, I am also pleased by the inclusion of funding to help mitigate the effects of pollution, including acid rain, on inland lakes.

I also want to draw particular attention to the $100 million authorized to assist the Massachusetts Water Resources Authority in the construction of sewage treatment facilities that are desperately needed to halt the pollution of Boston Harbor and nearby waterways.

The legislation we will approve today includes $2.4 billion annually in proposed funding nationwide for sewage treatment construction grants through the year 1991. Former EPA Administrator William Ruckelshaus gave the Congress a firm commitment that this level of funding would be supported by the administration. Given the President's veto, it is obvious that this commitment has been broken.

But if there is any lesson we ought to have learned from the problems now experienced by Boston, and by many other cities with inadequate or antiquated sewage treatment facilities, it is that delay in responding to this problem is precisely the wrong course to take. The challenge of providing for the safe treatment and disposal of sewage sludge will not go away, and it will not get any easier over time. It is a problem that cannot be avoided, and for which delay produces only grave environmental harm and a higher ultimate cost.

In closing, I want to congratulate the leadership of the House Committee on Public Works and Transportation, both the majority and the minority, for their excellent work on this legislation and for continuing the commitment to improving the quality of our Nation's waterways.

Mr. McMILLEN of Maryland. Mr. Speaker, I rise in strong support of H.R. 1, the Clean Water Act. As a newly-elected Member of Congress, I am proud to have H.R. 1 as the first bill that I have cosponsored.

Representing the Fourth District of Maryland makes the Clean Water Act even more important to me than to most Members. Bordering my district are the Chesapeake Bay and Potomac River, both national treasures and both victims of man's shameful lack of appreciation and disregard for the environment.

We all are aware of the background of H.R. 1, Mr. Speaker. Passed unanimously by both Houses of Congress in October, the Clean Water Act was vetoed by President Reagan on November 6. This pocket veto by the President prevented Congress from acting sooner on the bill as the 99th had already adjourned. However, this pocket veto now allows me the great pleasure of voting for the Clean Water Act and working to ensure that it becomes law. I can think of no other task on which I would rather initiate my duties as a Member of Congress representing the Fourth District of Maryland.

The Chesapeake Bay is important and special to me, as a Congressman and a proud citizen of Maryland. Many of us in these Chambers have enjoyed the pleasures that the great State of Maryland has to offer and the bay is certainly one of our crown jewels. Yet for decades the Chesapeake Bay has served as a dumping pool for over 5,000 factories, military bases, and sewage treatment plants from Virginia to New York. The signing of the Chesapeake Bay Agreement in December 1983 recognized the work that had to be done to save the bay. Since this agreement, the State of Maryland has allocated $80 million to bay restoration. The recently elected Governor of Maryland, the Honorable William Donald Schaefer, has rightfully focused his attentions on the crucial matter of revitalizing the Chesapeake Bay. To coordinate State and Federal efforts such as these, the Clean Water Act opens a Chesapeake Bay office at the Environmental Protection Agency.

Recognition of the Chesapeake Bay's special status by Congress is long overdue. H.R. 1 is an important step in the right direction to protecting not only the Chesapeake Bay, but bodies of water throughout the United States. Mr. Speaker, too often we take for granted the bounties which this great land of ours has been blessed. We can no longer afford to neglect and abuse the environment as we have in the past. The Clean Water Act is a step toward rectifying these wrongs and I lend to it my wholehearted support.

Mr. FAUNTROY. Mr. Speaker, I rise in support of H.R. 1, the Clean Water Act, a bill whose provisions are the same as the measure vetoed by President Reagan on November 6, 1986, and which was passed by a sweeping majority of 340–83 on July 23, 1985, in the 99th Congress. The Senate passed this bill on May 14, 1985, with an historic affirmation of 94–0. It is the conference report which was approved by an overwhelming vote in the House of 408–0 and the same historic vote in the Senate of 96–0 which establishes the unquestionably high priority all the U.S. Congress placed upon the Clean Water Act. It is this conference report legislation which comes before us today as H.R. 1.

This legislation established new frontiers in clean water management throughout our Nation at a time when pollution of every sort and inadequate clean water provisions and coordination at local and State levels combine to rob present and future generations of men and animal of the life-giving necessity of safe, clean water. The details of this bill, which are familiar to all of us through the long, hard work done on it in the 99th Congress, demonstrates a carefully considered and comprehensive approach providing much needed regulatory revisions and program safeguards.

While the President vetoed this legislation just after the Congress adjourned for the 99th Congress, therefore making it impossible for the 99th Congress to override his veto, we must express our will in the 100th Congress in passing this important legislation.

I urge my colleagues in the House and the Senate to vote this bill, identical as it is to the conference report adopted by both Houses in the 99th Congress, into law as the first, most significant act of the 100th Congress.

Mr. JONTZ. Mr. Speaker, it is with great pleasure that one of the first votes I will cast in the House of Representatives is a vote in support of H.R. 1, the Clean Water Act.

There are a number of important provisions in this legislation, but I would like to offer some brief comments about just two.

Of special importance to the citizens of Indiana are the programs to be established under H.R. 1 to deal with the pollution problems facing the Great Lakes. These provisions will give the U.S. Environmental Protection Agancy a legislative mandate to focus on the unique water quality problems which threaten our beautiful Great Lakes. The legislation will be an important step toward implementation of the Great Lakes Water Quality Agreement which our Nation has with Canada, recognizing the international aspect of the lakes and the need for international cooperation in addressing the problems the lakes face.

In addition, H.R. 1 authorizes establishment of two important offices within the Federal Government to address Great Lakes water problems: one within the EPA, and one within the National Oceanic and Atmospheric Administration. The EPA will conduct a multiyear study of means which can be used to reduce the level of toxic chemicals and nutrients entering the lakes. NOAA will undertake a study of further research which is needed to address Great Lakes' problems.

A demonstration project seeking the most effective methods of treating contaminated sediments in the Grand Calumet-Indiana Harbor Ship Canal will provide experience and information in dealing with similar problems in other waterways in our Nation's urban areas.

These provisions are long overdue acknowledgement that the unique interstate and international nature of the Great Lakes requires special attention by our Federal Government. The programs which H.R. 1 authorizes will be a wise investment in protecting the priceless economic, recreational, and environmental resources of our Great Lakes.

A second portion of H.R. 1 which I would like to address just briefly pertains to the problem of nonpoint sources of pollution of our Nation's waters. H.R. 1 authorizes $400 million to be used to assist the States in the development of programs to control nonpoint sources of pollution. This pollution has been particularly difficult to reduce, even though it can contribute up to 90 percent of suspended solids in some waterways and between 50 and 90 percent of other pollutants, because of the fact that nonpoint-source pollution results from various agricultural and urban land use practices.

In my home countries, we have seen the adverse effects of nonpoint-source pollution in the accumulation of sediment in Lake Shafer and Like Freeman. This sediment is not simply a cosmetic problem; it is a serious threat to the economy of the Monticello area to the extent that continued accumulation of sediment many limit the recreational use of our lakes. The sort of programs which may be established by our State, and others, as a result of the provisions of H.R. 1 pertaining to nonpoints-source pollution could be very helpful in addressing this sort of problem.

In conclusion, the Clean Water Act is an important legislative step toward protecting the waters of our Nation for our use and enjoyment, and the use and enjoyment of future generations. I am happy to be able to join my colleagues in supporting H.R. 1.

Mr. McDADE. Mr. Speaker, there is nothing more fundamental or necessary for the existence of quality life on this planet than the availability of clean and potable water. Moreover, it is very sobering to realize that since the beginning of the world no new water has been created—water is only recycled. In other words, the water that we have on this planet is a finite resource of which we will receive no more or less that we already possess. Therefore, a grave responsibility is placed upon this body to act responsibly and to prudently preserve this most precious national asset from pollution and degradation.

Congress has realized this historical reality and has acted accordingly by passing the Clean Water Act of 1986 during the 99th Congress. However, as the 100th Congress commences its legislative agenda, we are once again confronted with the challenge to continue our vigilance in the defense of the health and welfare of future Americans by passing H.R. 1, the Clean Water Act of 1987. This measure will assure that our cities and industries will be assisted in improving and protecting the quality of our water resources.

Mr. Speaker, as a consponsor of H.R. 1, I rise in support of this most important and impactful measure. Clean water is clearly not a partisan issue, and the time for it's bipartisan support has come. H.R. 1 is a strong bill. It is a reasonable bill. It is an acceptable compromise. Clearly, it is legislation vitally needed by our Nation, and particularly needed by States like Pennsylvania which are blessed with large water resources and the resultant responsibilities for their preservation.

As we are all aware, it is time to reestablish our intentions and adjust our long-term direction, in this drive to purify and protect our water. And while the steps necessary to ensure its safekeeping are not inexpensive, to not spend the needed funds is to risk losing this vital resource forever. Therefore, let us support H.R. 1, a bill designed to fund the construction of badly needed public water treatment works, extend deadlines for industrial compliance and create a balanced program for the control of rainwater runoff. Additionally, this measure takes a balanced approach to gradually allowing the States to take more responsibility for the funding and maintenance of future projects by establishing State revolving loan funds.

Finally, the Federal Water Pollution Control Act of 1972, envisioned an America with abundant and clean rivers and streams. This should not be an unobtainable goal. While we have made significant progress in this direction, there is still much to be done. The legacy of our stewardship over our most precious water assets will be judged by the decisions that we make in these Chambers this very day. Let us not squander our national water treasures when the means are at hand to preserve them. I urge my colleagues to join me in supporting this vital legislation.

Mr. TRAFICANT. Mr. Speaker, today, we are voting on an issue, that as my good friend and chairman of the House Public Works and Transportation Committee, JIM HOWARD has said, will play a great role in determining the direction of the Nation's policy on environment and the infrastructure.

As many of you, I was disappointed in the lack of commitment by this President and the administration in its efforts to clean up America's water systems. Unlike many of the bills considered by the Congress, this one has the support from all sectors of our society—business, industry, labor, environmentalists, and State and local government officials. All recognize, as we do here in the Congress, of the great need for the improvement of our Nation's water quality through essential new constraints on toxic water pollutants and improved program development for the construction of sewage treatment plants.

It is encouraging to see such unprecedented cooperation, and it is my hope that this will send a clear and strong signal to the President of our unabashed commitment to clean water and further, that this cooperation will extend to the implementation of these programs so as to achieve our objectives of a clean water supply for all U.S. citizens.

I urge my colleagues to join me in voting in favor of H.R. 1.

Mr. ROTH. Mr. Speaker, today I rise in support of H.R. 1. This measure strengthens our Nation's commitment to safeguarding the environment for future generations.

One of the most important new features of the bill is a coordinated environmental management program for the Great Lakes. The Great Lakes constitute the largest single system of fresh water in the world and represents the Midwest's most precious and important natural resource.

H.R. 1 provides formal recognition of the Great Lakes Water Quality Agreement of 1978 and designates the EPA's Great Lakes National Program Office as the lead agency responsible for coordinating U.S. efforts to achieve the goals outlined in the agreement. A new Great Lakes Research Office will be created under the auspices of the National Oceanic and Atmospheric Administration to formulate a central environmental research data base for the lakes.

Past efforts to manage the water quality of the Great Lakes were split among several Federal agencies, each operating independently. The designation of the EPA as the coordinating Federal agency will succeed in improving management.

The comprehensive Great Lakes Program includes a 5-year authorization to establish a toxic monitoring and surveillance network for the lakes and coordinate priority cleanups of "toxic hotspots" on the lakes. The International Joint Commission identified 42 areas of concern for toxic pollutants on the lakes and five sites have been mentioned specifically for demonstration cleanups of toxic sediments. Contaminated sediments are a prime source of the toxics infesting Great Lakes fish.

The Great Lakes are a delicate balanced ecosystem and it is vital to the States in the Great Lakes basin that the balance is maintained. The implementation of a coordinated toxic monitoring and cleanup porgam will do much to preserve the Great Lakes as a dependable water supply for residential and industrial consumption.

Ensuring the quality of our Nation's water resources is of paramount importance. I commend the efforts of individuals who worked to bring the Clean Water Act Amendments to the floor. I share their firm commitment and applaud the important steps the Water Quality Act of 1987 makes to further protect this Nation's vital resource.

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time and I reserve the balance of my time.

Mr. HOWARD. Mr. Speaker, I yield the remaining 4 minutes of our time to the prime architect of this legislation, our colleague from the State of New Jersey [Mr. ROE].

(Mr. ROE asked and was given permission to revise and extend his remarks, and to include extraneous matter.)

Mr. ROE. Mr. Speaker, I wish to thank the committee chairman, our distinguished colleague and leader, Mr. HOWARD, for yielding me this time, and our distinguished colleague and leader, Mr. JOHN PAUL HAMMERSCHMIDT, on the minority side for all of the work they have put into this particular legislation.

Mr. Speaker, it is a pleasure for me to bring to the floor H.R. 1, the Water Quality Act of 1987. This bill is the same legislation approved unanimously in both Houses of the 99th Congress by votes of 408–0 in the House and 96–0 in the Senate. Because this legislation is the same as that passed in the 99th Congress, both the conference report, House Report 99-1004, and our committee report, House Report 99-189, to the extent it is consistent with the conference report, can continue to be used as part of the legislative history of this legislation.

This legislation is the culmination of years of effort, including an extensive and detailed examination of the Water Pollution Control Program and of measures to make the program more effective and responsive to budgetary considerations.

The bill before the House represents the next step in the cleanup and maintenance of our vast national water ecosystem. We have come a great distance since the early 1970's when signs of water pollution were severe near municipalities and apparent even in rural areas. For too long we had used our waters to receive and dispose of our wastes. The result was serious damage to our ability to enjoy our waters for swimming, boating, and sport and commercial fishing. We now clearly have reduced the discharge or pollutants from waste water treatment plants. Evidence of improved water quality can be observed in our rivers and lakes. This legislation will continue and improve upon the work which has been accomplished to date.

This legislation contains many provisions which will greatly improve the Federal Water Pollution Control Program. It continues through fiscal year 1990 authorizations for a number of programs in the Water Pollution Control Act, including research activities, training of personnel, forecasting the supply of and demand for occupational catergories needed in the water pollution control field, grants to State and interstate agencies to assist in administering programs for water pollution control, grants to educational institutions for programs to train personnel in the operation of water pollution control facilities, grants under section 208 for developing and operating areawide waste treatment management planning processes, grants for the rural Clean Water Program and the Clean Lakes Program, and the general administration of the Federal Water Pollution Control Act by the Environmental Protection Agency.

The Construction Grants Program, which provides a 55-percent Federal grant for the construction of sewage treatment facilities, is continued at its present level of $2.4 billion per year through fiscal year 1988, and at $1.2 billion per year for fiscal year 1989 and fiscal year 1990. In addition, a new grant program is authorized which provides funds to the States to establish water pollution control revolving funds. These revolving funds are to be used by the States to make low-interest loans, subsidize bonds, and take other similar measures in order to assist communities in the construction of sewage treatment works. The States must contribute 20 percent of their own money to these revolving funds.

The authorized amounts for grants for these revolving funds are $1.2 billion per year for fiscal years 1989 and 1990, $2.4 billion for fiscal year 1991, $1.8 billion for fiscal year 1992, $1.2 billion for fiscal year 1993, and $600 million for fiscal year 1994.

The Environmental Protection Agency estimated, in its 1984 needs survey, that the Federal share, under existing law, for eligible treatment plants through the year 2000 is approximately $35.8 billion. This is twice the amount authorized by H.R. 1 for construction grants and revolving fund grants. We are optimistic that the Combined Construction Grant and Revolving Fund Grant Programs will enable communities to meet the requirements of the act. This is because the revolving funds will provide a continuing supply of funds for assistance.

The legislation also contains a number of other provisions to improve our efforts to restore and maintain the quality of our waters.

A program to encourage and assist States in the control of nonpoint sources of water pollution is established. Approximately 50 percent of the pollution entering our Nation's waters comes from nonpoint sources. In order to achieve adequate water quality it is absolutely essential that we begin to address the very serious problem of nonpoint sources of pollution.

Federal grants of up to 60 percent are authorized over a period of 4 years in a total amount of $400 million. States are required to identify waters which cannot reasonably be expected to attain water quality standards without additional controls of nonpoint source pollution, and to identify management practices for categories, and subcategories of nonpoint sources and particular nonpoint sources which add significant pollution to waters. The States also are required to submit management programs to EPA for approval. Implementation grants are available to States with approved programs. Interstate management conferences are provided for where pollutants in one State are preventing water quality standards from being attained in another State.

The clean lakes provision of the Federal Water Pollution Control Act, which establishes a Grant Assistance Program to improve the water quality of lakes, is extended. In addition, new provisions are added to increase the effectiveness of the program.

There is a provision for the development and implementation of individual control strategies to achieve compliance with applicable water quality standards where it is determined that such compliance will not result from the application of best available technology and best conventional technology.

Penalties for violation of the act are increased, and a provision authorizing the assessment of administrative penalties is included. These are designed to substantially increase EPA's enforcement capabilities to ensure compliance with the act.

Another important provision concerns management and control of municipal and industrial storm water discharges. The bill establishes a mechanism to address the major problems associated with discharges from storm sewers through a permitting procedure and the development and implementation of management practices, control technologies, and design and engineering methods.

For industrial and large municipal dischargers—storm sewer systems serving a population of 250,000 or more—not later than 2 years after the date of enactment the Administrator must establish regulations setting forth permit application requirements. Applications for permits must be filed within 3 years after the date of enactment and the Administrator or the State, as the case may be, must issue or deny such permits within 4 years of the date of enactment. These permits must provide for compliance as expeditiously as practicable but in no event later than 3 years after the date of issuance of the permit. For discharges from storm sewers serving a population of 100,000 or more, the Administrator must establish permit application requirements within 4 years of the date of enactment. Applications for permits must be filed no later than 5 years after date of enactment, and the Administrator or the State, as the case may be, must issue or deny the permits within 6 years after the date of enactment. The permits must provide for compliance as expeditiously as practicable but in no event later than 3 years after the date the permit is issued.

Permits for other discharges are not required prior to October 1, 1992, except for those which the Administrator or the State determines contribute to a violation of a water quality standard or are a significant contributor of pollutants to waters of the United States.

Permits for discharges from municipal storm sewers may be issued on a system or jurisdictionwide basis and must include the requirement to effectively prohibit nonstorm water discharges into storm sewers. In addition, they must require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control technologies and systems, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of pollutants.

The control of storm water discharges to protect the quality of the Nation's waters is a vast undertaking which, under existing law, would require an estimated 1 million permits. The provision in the bill establishes an orderly procedure which will enable the major contributors of pollutants to be addressed first, and all discharges to be ultimately addressed in a manner which will not completely overwhelm EPA's capabilities.

Section 301(g) of the act allows EPA to grant modifications to effluent limitations for nonconventional pollutants if certain conditions are met. The bill limits the availability of such modifications to five pollutants: Ammonia, chlorine, color, iron, and total phenols. These are substances for which EPA has sufficient data to properly assess a request for a modification of applicable effluent limitation. The provision in the bill provides for additions to the list of these five pollutants, but only if EPA first determines that a pollutant proposed to be added does not meet the criteria for listing as a toxic, and then determines that adequate test methods or sufficient data are available to make the determination required for the granting of a modification. In addition, strict deadlines are placed on the filing of petitions to add a pollutant to the section 301(g) list, applications for a modification, and EPA's approval or denial of these requests.

A strong "antibacksliding" provision is included, which strictly limits the situations in which effluent limitations in BPJ [best professional judgment] permits and water quality based permits may be made less stringent. As a general rule, effluent limitations established in a BPJ permit may not be modified to reflect less stringent requirements in subsequently issued effluent limitations. Exceptions to the general rule permit less stringent effluent limitations if material and substantial alterations or additions to the permitted facilities occurred after permit issuance, information is available which was not available at the time of permit issuance, technical mistakes or mistaken interpretation of law were made, there are events over which the permitee has no control, or a permit modification has been granted. For waters where the water quality standard has not been attained, any effluent limitation based on a total maximum daily load may be revised only if the cumulative effect of all of the revised effluent limitations will assure the attainment of the water quality standard. Where the quality of these waters exceeds or equals levels necessary to protect the designated use, any effluent based on a total maximum daily load or water quality or other standard may be revised only if the revision is subject to and consistent with the antibacksliding policy established under section 303.

Another provision of this legislation concerns the granting of a variance from the requirements of an effluent limitation if the owner or operator of a facility demonstrates that the facility is fundamentally different with respect to the factors considered by EPA in establishing the effluent limitation. The bill narrows and strictly defines the circumstances under which a fundamentally different factors [FDF] variance may be granted.

The bill includes a National Estuary Program which provides for management conferences to develop comprehensive management plans for estuaries where EPA determines, on its own initiative or upon nomination by a State, that the attainment or maintenance of water quality in the estuary requires the control of point and nonpoint sources of pollution to supplement existing controls of pollution in more than one State. The purposes of such a management conference are to assess trends in water quality and uses of the estuary, collect and assess data on toxics, nutrients and natural resources in estuarine zones to identify causes of environmental problems, develop a comprehensive conservation and management plan to restore and maintain the chemical, physical, and biological integrity of the estuary, develop implementation plans to be carried out by the States, and monitor the effectiveness of actions taken pursuant to the plan.

Mr. Speaker, there is one matter which has generated concern. Section 306(c) of the bill directs the Administrator to withdraw existing effluent guidelines applying to fertilizer plants in Louisiana on which construction was commenced on or before April 8, 1974. Within 180 days, the Administrator is to issue best professional judgment permits to these facilities under section 402(a)(1)(B).

Four Louisiana phosphate fertilizer plants—with a direct employment of 1,500 to 1,700 people—state that they are unable to comply with effluent limitations published by EPA. The limitations control the discharge of gypsum—a byproduct—cooling water and storm water runoff. Pollutants in the gypsum include radioactivity and metals. The plants are: Agrico Chemicals (Donaldsonville), Arcadian (Geismar), Beker (Taft), and Freeport Chemical (Uncle Sam). Most plants comply with the limitations by disposing of gypsum on land. The Louisiana plants claim they are unable to comply with the limitations because: First, a lack of land on which to dispose of the gypsum; and second, the soil characteristics and rainfall in Louisiana do not allow for the gypsum to be stacked for disposal as in other areas of the United States.

In 1974, EPA promulgated effluent guidelines for fertilizer manufacturing plants. These prescribe the minimum applicable technology based limits for the industry. Limits for individual plants may be more stringent to protect water quality. The regulation provides for no discharge of process wastewater pollutants, except for discharge after treatment of stormwater runoff in certain situations. Other similar plants comply with the regulation by disposing of the gypsum on land and recycling wastewater, including rainfall that comes into contact with the gypsum except for the stormwater exception.

All four plants have expired NPDES permits which are continued under the Administrative Procedure Act. Permits for Agrico and Arcadian contain limitations based on the current regulation. The permit for Freeport contains limitations based on the regulation, except for alternative limitations based on a 1981 fundamentally different factors [FDF] variance for once-through cooling water. The guidelines-based limitations in the permit for Beker have been stayed due to an administrative appeal of the permit which has been pending in EPA for several years.

In 1982-84, three of the facilities submitted requests for FDF variances from the limitations to allow at least a partial discharge of process waste water and gypsum. The FDF's are being held in abeyance at this time because of the ongoing rulemaking and permitting activities.

In 1983, industry requested that EPA review the regulation due to the lack of land and the climatic and soil conditions which exist in Louisiana. In 1984, EPA proposed to suspend the application of the regulation to these four plants because EPA believed the technology basis for the regulation was no longer applicable for the plants. In 1986, EPA provided additional information on the proposal, requested comments on the additional information and held a public hearing in Baton Rouge and New Orleans. EPA has not finalized this rulemaking activity, even though the original proposal is almost 3 years old.

In 1986, EPA proposed draft NPDES permits for these four plants which would allow for discharge of process waste water, including gypsum. The permits have have not been finalized by EPA. The Louisiana Department of Environmental Quality [DEP] has the right, under their certification authority contained in section 401 of the Clean Water Act, to require more stringent limitations necessary to comply with various provisions of the act. Louisiana DEP has established a task force to advise them on issues relating to these permits. EPA has established a region VI and headquarters task force, consisting of staff from the Offices of Water Regulations and Standards, Water Enforcement and Permits, Radiation Programs and general counsel to evaluate various issues raised on the draft prmits and develop final requirements.

Section 306(c) excludes the four Louisiana plants from the existing EPA regulation and requires EPA to issue new NPDES permits within 180 days. The amendment does not require EPA to allow discharge of process wastewater, including gypsum. The amendment does allow EPA to address each plant individually and to develop limitations for the different types of waste water generated. The amendment does not require Louisiana to concur on the permits or certify, under the Clean Water Act, the permit limitations that EPA proposed in 1986. Louisiana still has the right under the Clean Water Act to require more stringent limitations. The amendment does not change the right of a party to challenge the permits using established administrative and judicial appeals. The amendment does not change the provision of the act limiting permit terms to no more than 5 years.

The effect of the amendment is simply to require EPA to make a decision as to these facilities under the authority of section 402(a)(1)(B) of the act. EPA's authority and responsibility under section 402(a)(1)(B) is in no way altered. The agency is to consider all relevant factors and make a determination consistent with the goals of the Federal Water Pollution Control Act to ensure protection of public health and the environment. Section 306(c) does not sanction any past actions of EPA nor mandate any particular result such as the discharge of gypsum. EPA could, for example, issue a permit imposing limitations on the discharges of stormwater and cooling water and prohibiting the discharge of gypsum.

Moreover, our committee stands ready to monitor EPA's implementation of this provision and public hearings on the matter, as necessary to insure the protection of public health and the environment.

The bill H.R. 1, the Water Quality Act of 1987, represents a very large step forward in our efforts to improve and preserve the quality of our Nation's waters. In the area of municipal treatment of wastes, the phasing out of the Construction Grants Programs, together with the capilization grants for State revolving loan funds will provide a foundation for the continuation of efforts at the State level to achieve compliance with the requirements of the act with respect to municipal treatment. The program for the regulation and control of storm water discharges will provide an orderly means of bringing these sources of pollution under control. Necessary flexibility will be provided in the establishment and implementation of effluent limitations to address unique situations without sacrificing improvements in water quality. This legislation is a sound and reasonable approach to the Nation's needs to improve and maintain that water quality which is essential to fish and wildlife resources and the public health and well-being. I urge my colleagues to approve this legislation once again with the same unanimous support given to it in the previous Congress.

Mr. Speaker, in closing I would like to say there was an article that appeared in the Washington Post, and I shared this with my great friend, Mr. Howard, recently. The article talked about Bob Roe of New Jersey, not splitting our team, of course, but perhaps taking on some new responsibilities.

The headline went "From the Sewers to the Stars." So that as we go from the sewers to the stars, I want to thank the gentleman for all we have done on Earth and we are certainly going to need public works and health when we get back in that shuttle and what we are to do with our waste materials there.

Mr. HOWARD. Mr. Speaker, will the gentleman yield?

Mr. ROE. I yield to the gentleman from New Jersey.

Mr. HOWARD. I thank the gentleman.

Mr. Speaker, I believe the gentleman as the chairman of that great committee will be going to the stars because he has become a star for many years working on our sewer problems and public works.

Mr. ROE. I thank the gentleman from New Jersey.

Mr. ROEMER. Mr. Speaker, will the gentleman yield?

Mr. ROE. I yield to the gentleman from Louisiana.

Mr. ROEMER. I thank the gentleman.

Mr. Speaker, I served with the gentleman in the well my first year in the Congress as a member of his Subcommittee on Water, and I said then and I want to say now: You are one of the best Members of the House. I appreciate, being from the State of Louisiana, the help you have given us today to take care of section 306. Thank you very much.

Mr. ROE. I thank the gentleman from Louisiana.

The text of H.R. 1 is as follows:

H.R. 1

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; AMENDMENTS TO FEDERAL WATER POLLUTION CONTROL ACT; DEFINITION OF ADMINISTRATOR.

(a) SHORT TITLE.—This Act may be cited as the "Water Quality Act of 1987".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents; amendments to Federal Water Pollution Control Act; definition of Administrator.
Sec. 2. Limitation on payments.

TITLE I—AMENDMENTS TO TITLE I

Sec. 101. Authorizations of appropriations.
Sec. 102. Small flows clearinghouse.
Sec. 103. Chesapeake Bay.
Sec. 104. Great Lakes.
Sec. 105. Research on effects of pollutants.

TITLE II—CONSTRUCTION GRANTS AMENDMENTS

Sec. 201. Time limit on resolving certain disputes.
Sec. 202. Federal share.
Sec. 203. Agreement on eligible costs.
Sec. 204. Design/build projects.
Sec. 205. Grant conditions; user charges on low-income residential users.
Sec. 206. Allotment formula.
Sec. 207. Rural set aside.
Sec. 208. Innovative and alternative projects.
Sec. 209. Regional organization funding.
Sec. 210. Marine CSO's and estuaries.
Sec. 211. Authorization for construction grants.
Sec. 212. State water pollution control revolving funds.
Sec. 213. Improvement projects.
Sec. 214. Chicago tunnel and reservoir project.
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TITLE III—STANDARDS AND ENFORCEMENTS

Sec. 301. Compliance dates.
Sec. 302. Modification for nonconventional pollutants.
Sec. 303. Discharges into marine waters.
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Sec. 307. Coal remining operations.
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Sec. 309. Pretreatment standards.
Sec. 310. Inspection and entry.
Sec. 311. Marine sanitation devices.
Sec. 312. Criminal penalties.
Sec. 313. Civil penalties.
Sec. 314. Administrative penalties.
Sec. 315. Clean lakes.
Sec. 316. Management of nonpoint sources of pollution.
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TITLE IV—PERMITS AND LICENSES

Sec. 401. Stormwater runoff from oil, gas, and mining operations.
Sec. 402. Additional pretreatment of conventional pollutants not required.
Sec. 403. Partial NPDES program.
Sec. 404. Anti-backsliding.
Sec. 405. Municipal and industrial stormwater discharges.
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TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. Audits.
Sec. 502. Commonwealth of the Northern Mariana Islands.
Sec. 503. Agricultural stormwater discharges.
Sec. 504. Protection of interests of United States in citizen suits.
Sec. 505. Judicial review and award of fees.
Sec. 506. Indian tribes.
Sec. 507. Definition of point source.
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Sec. 509. Ocean discharge research project.
Sec. 510. San Diego, California.
Sec. 511. Limitation on discharge of raw sewage by New York City.
Sec. 512. Oakwood Beach and Red Hook Projects, New York.
Sec. 513. Boston Harbor and adjacent waters.
Sec. 514. Wastewater reclamation demonstration.
Sec. 515. Des Moines, Iowa.
Sec. 516. Study of de minimis discharges.
Sec. 517. Study of effectiveness of innovative and alternative processes and techniques.
Sec. 518. Study of testing procedures.
Sec. 519. Study of pretreatment of toxic

pollutants.
Sec. 520. Studies of water pollution problems in aquifers.
Sec. 521. Great Lakes consumptive use study.
Sec. 522. Sulfide corrosion study.
Sec. 523. Study of rainfall induced infiltration into sewer systems.
Sec. 524. Dam water quality study.
Sec. 525. Study of pollution in Lake Pend Oreille, Idaho.

(c) Amendment of Federal Water Pollution Control Act.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Water Pollution Control Act.

(d) Definition.—For purposes of this Act, the term "Administrator" means the Administrator of the Environmental Protection Agency.

SEC. 2. LIMITATION ON PAYMENTS.

No payments may be made under this Act except to the extent provided in advance in appropriation Acts.

TITLE I—AMENDMENTS TO TITLE I

SEC. 101. AUTHORIZATIONS OF APPROPRIATIONS.

(a) Research and Investigations.—Section 104(u) is amended—

(1) in clause (1) by striking out "and" after "1975,", after "1980,", and after "1981,", and by inserting after "1982," the following: "such sums as may be necessary for fiscal years 1983 through 1985, and not to exceed $22,770,000 per fiscal year for each of the fiscal years 1986 through 1990,";

(2) in clause (2) by striking out "and" after "1981," and by inserting after "1982," the following: "such sums as may be necessary for fiscal years 1983 through 1985, and $3,000,000 per fiscal year for each of the fiscal years 1986 through 1990,"; and

(3) in clause (3) by striking out "and" after "1981," and by inserting after "1982," the following: "such sums as may be necessary for fiscal years 1983 through 1985, and $1,500,000 per fiscal year for each of the fiscal years 1986 through 1990,".

(b) Grants for Program Administration.—Section 106(a)(2) is amended by inserting after "1982" the following: ", such sums as may be necessary for fiscal years 1983 through 1985, and $75,000,000 per fiscal year for each of the fiscal years 1986 through 1990".

(c) Training Grants and Scholarships.—Section 112(c) is amended by striking out "and" after "1981," and by inserting after "1982," the following: "such sums as may be necessary for fiscal years 1983 through 1985, and $7,000,000 per fiscal year for each of the fiscal years 1986 through 1990,".

(d) Areawide Planning.—Section 208(f)(3) is amended by striking out "and" after "1974," and after "1980," and by inserting after "1982" the following: ", and such sums as may be necessary for fiscal years 1983 through 1990".

(e) Rural Clean Water.—Section 208(j)(9) is amended by striking out "and" after "1981," and by inserting after "1982," the following: "and such sums as may be necessary for fiscal years 1983 through 1990,".

(f) Interagency Agreements.—Section 304(k)(3) is amended by inserting after "1983" the following: "and such sums as may be necessary for fiscal years 1984 through 1990".

(g) Clean Lakes.—Section 314(c)(2) is amended by striking out "and" after "1981," and by inserting after "1982" the following: ", such sums as may be necessary for fiscal years 1983 through 1985, and $30,000,000 per fiscal year for each of the fiscal years 1986 through 1990".

(h) General Authorization.—Section 517 is amended by striking out "and" after "1981," and by inserting after "1982" the following: ", such sums as may be necessary for fiscal years 1983 through 1985, and $135,000,000 per fiscal year for each of the fiscal years 1986 through 1990".

SEC. 102. SMALL FLOWS CLEARINGHOUSE.

Section 104(q) is amended by adding at the end thereof the following new paragraph:

"(4) Small flows clearinghouse.—Notwithstanding section 205(d) of this Act, from amounts that are set aside for a fiscal year under section 205(i) of this Act and are not obligated by the end of the 24-month period of availability for such amounts under section 205(d), the Administrator shall make available $1,000,000 or such unobligated amount, whichever is less, to support a national clearinghouse within the Environmental Protection Agency to collect and disseminate information on small flows of sewage and innovative or alternative wastewater treatment processes and techniques, consistent with paragraph (3). This paragraph shall apply with respect to amounts set aside under section 205(i) for which the 24-month period of availability referred to in the preceding sentence ends on or after September 30, 1986.".

SEC. 103. CHESAPEAKE BAY.

Title I is amended by adding at the end the following new section:

"SEC. 117. CHESAPEAKE BAY.

"(a) Office.—The Administrator shall continue the Chesapeake Bay Program and shall establish and maintain in the Environmental Protection Agency an office, division, or branch of Chesapeake Bay Programs to—

"(1) collect and make available, through publications and other appropriate means, information pertaining to the environmental quality of the Chesapeake Bay (hereinafter in this subsection referred to as the 'Bay');

"(2) coordinate Federal and State efforts to improve the water quality of the Bay;

"(3) determine the impact of sediment deposition in the Bay and identify the sources, rates, routes, and distribution patterns of such sediment deposition; and

"(4) determine the impact of natural and man-induced environmental changes on the living resources of the Bay and the relationships among such changes, with particular emphasis placed on the impact of pollutant loadings of nutrients, chlorine, acid precipitation, dissolved oxygen, and toxic pollutants, including organic chemicals and heavy metals, and with special attention given to the impact of such changes on striped bass.

"(b) Interstate Development Plan Grants.—

"(1) Authority.—The Administrator shall, at the request of the Governor of a State affected by the interstate management plan developed pursuant to the Chesapeake Bay Program (hereinafter in this section referred to as the 'plan'), make a grant for the purpose of implementing the management mechanisms contained in the plan if such State has, within 1 year after the date of the enactment of this section, approved and committed to implement all or substantially all aspects of the plan. Such grants shall be made subject to such terms and conditions as the Administrator considers appropriate.

"(2) Submission of proposal.—A State or combination of States may elect to avail itself of the benefits of this subsection by submitting to the Administrator a comprehensive proposal to implement management mechanisms contained in the plan which shall include (A) a description of proposed abatement actions which the State or combination of States commits to take within a specified time period to reduce pollution in the Bay and to meet applicable water quality standards, and (B) the estimated cost of the abatement actions proposed to be taken during the next fiscal year. If the Administrator finds that such proposal is consistent with the national policies set forth in section 101(a) of this Act and will contribute to the achievement of the national goals set forth in such section, the Administrator shall approve such proposal and shall finance the costs of implementing segments of such proposal.

"(3) Federal share.—Grants under this subsection shall not exceed 50 percent of the costs of implementing the management mechanisms contained in the plan in any fiscal year and shall be made on condition that non-Federal sources provide the remainder of the cost of implementing the management mechanisms contained in the plan during such fiscal year.

"(4) Administrative costs.—Administrative costs in the form of salaries, overhead, or indirect costs for services provided and charged against programs or projects supported by funds made available under this subsection shall not exceed in any one fiscal year 10 percent of the annual Federal grant made to a State under this subsection.

"(c) Reports.—Any State or combination of States that receives a grant under subsection (b) shall, within 18 months after the date of receipt of such grant and biennially thereafter, report to the Administrator on the progress made in implementing the interstate management plan developed pursuant to the Chesapeake Bay Program. The Administrator shall transmit each such report along with the comments of the Administrator on such report to Congress.

"(d) Authorization of Appropriations.—There are hereby authorized to be appropriated the following sums, to remain available until expended, to carry out the purposes of this section:

"(1) $3,000,000 per fiscal year for each of the fiscal years 1987, 1988, 1989, and 1990, to carry out subsection (a); and

"(2) $10,000,000 per fiscal year for each of the fiscal years 1987, 1988, 1989, and 1990, for grants to States under subsection (b).".

SEC. 104. GREAT LAKES.

Title I is amended by adding at the end the following new section:

"SEC. 118. GREAT LAKES.

"(a) Findings, Purpose, and Definitions.—

"(1) Findings.—The Congress finds that—

"(A) the Great Lakes are a valuable national resource, continuously serving the people of the United States and other nations as an important source of food, fresh water, recreation, beauty, and enjoyment;

"(B) the United States should seek to attain the goals embodied in the Great Lakes Water Quality Agreement of 1978 with particular emphasis on goals related to toxic pollutants; and

"(C) the Environmental Protection Agency should take the lead in the effort to meet those goals, working with other Federal agencies and State and local authorities.

"(2) Purpose.—It is the purpose of this section to achieve the goals embodied in the Great Lakes Water Quality Agreement of 1978 through improved organization and definition of mission on the part of the Agency, funding of State grants for pollution control in the Great Lakes area, and improved accountability for implementation of such agreement.

"(3) Definitions.—For purposes of this section, the term—

"(A) 'Agency' means the Environmental Protection Agency;

"(B) 'Great Lakes' means Lake Ontario, Lake Erie, Lake Huron (including Lake St. Clair), Lake Michigan, and Lake Superior, and the connecting channels (Saint Mary's River, Saint Clair River, Detroit River, Niagara River, and Saint Lawrence River to the Canadian Border);

"(C) 'Great Lakes System' means all the streams, rivers, lakes, and other bodies of water within the drainage basin of the Great Lakes;

"(D) 'Program Office' means the Great Lakes National Program Office established by this section; and

"(E) 'Research Office' means the Great Lakes Research Office established by subsection (d).

"(b) Great Lakes National Program Office.—The Great Lakes National Program Office (previously established by the Administrator) is hereby established within the Agency. The Program Office shall be headed by a Director who, by reason of management experience and technical expertise relating to the Great Lakes, is highly qualified to direct the development of programs and plans on a variety of Great Lakes issues. The Great Lakes National Program Office shall be located in a Great Lakes State.

"(c) Great Lakes Management.—

"(1) Functions.—The Program Office shall—

"(A) in cooperation with appropriate Federal, State, tribal, and international agencies, and in accordance with section 101(e) of this Act, develop and implement specific action plans to carry out the responsibilities of the United States under the Great Lakes Water Quality Agreement of 1978;

"(B) establish a Great Lakes system-wide surveillance network to monitor the water quality of the Great Lakes, with specific emphasis on the monitoring of toxic pollutants;

"(C) serve as the liaison with, and provide information to, the Canadian members of the International Joint Commission and the Canadian counterpart to the Agency;

"(D) coordinate actions of the Agency (including actions by headquarters and regional offices thereof) aimed at improving Great Lakes water quality; and

"(E) coordinate actions of the Agency with the actions of other Federal agencies and State and local authorities, so as to ensure the input of those agencies and authorities in developing water quality strategies and obtain the support of those agencies and authorities in achieving the objectives of such agreement.

"(2) 5-year plan and program.—The Program Office shall develop, in consultation with the States, a five-year plan and program for reducing the amount of nutrients introduced into the Great Lakes. Such program shall incorporate any management program for reducing nutrient runoff from nonpoint sources established under section 319 of this Act and shall include a program for monitoring nutrient runoff into, and ambient levels in, the Great Lakes.

"(3) 5-YEAR STUDY AND DEMONSTRATION PROJECTS.—The Program Office shall carry out a five-year study and demonstration projects relating to the control and removal of toxic pollutants in the Great Lakes, with emphasis on the removal of toxic pollutants from bottom sediments. In selecting locations for conducting demonstration projects under this paragraph, priority consideration shall be given to projects at the following locations: Saginaw Bay, Michigan; Sheboygan Harbor, Wisconsin; Grand Calumet River, Indiana; Ashtabula River, Ohio; and Buffalo River, New York.

"(4) ADMINISTRATOR'S RESPONSIBILITY.—The Administrator shall ensure that the Program Office enters into agreements with the various organizational elements of the Agency involved in Great Lakes activities and the appropriate State agencies specifically delineating—

"(A) the duties and responsibilities of each such element in the Agency with respect to the Great Lakes;

"(B) the time periods for carrying out such duties and responsibilities; and

"(C) the resources to be committed to such duties and responsibilities.

"(5) BUDGET ITEM.—The Administrator shall, in the Agency's annual budget submission to Congress, include a funding request for the Program Office as a separate budget line item.

"(6) COMPREHENSIVE REPORT.—Within 90 days after the end of each fiscal year, the Administrator shall submit to Congress a comprehensive report which—

"(A) describes the achievements in the preceding fiscal year in implementing the Great Lakes Water Quality Agreement of 1978 and shows by categories (including judicial enforcement, research, State cooperative efforts, and general administration) the amounts expended on Great Lakes water quality initiatives in such preceding fiscal year;

"(B) describes the progress made in such preceding fiscal year in implementing the system of surveillance of the water quality in the Great Lakes System, including the monitoring of groundwater and sediment, with particular reference to toxic pollutants;

"(C) describes the long-term prospects for improving the condition of the Great Lakes; and

"(D) provides a comprehensive assessment of the planned efforts to be pursued in the succeeding fiscal year for implementing the Great Lakes Water Quality Agreement of 1978, which assessment shall—

"(i) show by categories (including judicial enforcement, research, State cooperative efforts, and general administration) the amount anticipated to be expended on Great Lakes water quality initiatives in the fiscal year to which the assessment relates; and

"(ii) include a report of current programs administered by other Federal agencies which make available resources to the Great Lakes water quality management efforts.

"(d) GREAT LAKES RESEARCH.—

"(1) ESTABLISHMENT OF RESEARCH OFFICE.—There is established within the National Oceanic and Atmospheric Administration the Great Lakes Research Office.

"(2) IDENTIFICATION OF ISSUES.—The Research Office shall identify issues relating to the Great Lakes resources on which research is needed. The Research Office shall submit a report to Congress on such issues before the end of each fiscal year which shall identify any changes in the Great Lakes system with respect to such issues.

"(3) INVENTORY.—The Research Office shall identify and inventory Federal, State, university, and tribal environmental research programs (and, to the extent feasible, those of private organizations and other nations) relating to the Great Lakes system, and shall update that inventory every four years.

"(4) RESEARCH EXCHANGE.—The Research Office shall establish a Great Lakes research exchange for the purpose of facilitating the rapid identification, acquisition, retrieval, dissemination, and use of information concerning research projects which are ongoing or completed and which affect the Great Lakes System.

"(5) RESEARCH PROGRAM.—The Research Office shall develop, in cooperation with the Coordination Office, a comprehensive environmental research program and data base for the Great Lakes system. The data base shall include, but not be limited to, data relating to water quality, fisheries, and biota.

"(6) MONITORING.—The Research Office shall conduct, through the Great Lakes Environmental Research Laboratory, the National Sea Grant College program, other Federal laboratories, and the private sector, appropriate research and monitoring activities which address priority issues and current needs relating to the Great Lakes.

"(7) LOCATION.—The Research Office shall be located in a Great Lakes State.

"(e) RESEARCH AND MANAGEMENT COORDINATION.—

"(1) JOINT PLAN.—Before October 1 of each year, the Program Office and the Research Office shall prepare a joint research plan for the fiscal year which begins in the following calendar year.

"(2) CONTENTS OF PLAN.—Each plan prepared under paragraph (1) shall—

"(A) identify all proposed research dedicated to activities conducted under the Great Lakes Water Quality Agreement of 1978;

"(B) include the Agency's assessment of priorities for research needed to fulfill the terms of such Agreement; and

"(C) identify all proposed research that may be used to develop a comprehensive environmental data base for the Great Lakes System and establish priorities for development of such data base.

"(f) INTERAGENCY COOPERATION.—The head of each department, agency, or other instrumentality of the Federal Government which is engaged in, is concerned with, or has authority over programs relating to research, monitoring, and planning to maintain, enhance, preserve, or rehabilitate the environmental quality and natural resources of the Great Lakes, including the Chief of Engineers of the Army, the Chief of the Soil Conservation Service, the Commandant of the Coast Guard, the Director of the Fish and Wildlife Service, and the Administrator of the National Oceanic and Atmospheric Administration, shall submit an annual report to the Administrator with respect to the activities of that agency or office affecting compliance with the Great Lakes Water Quality Agreement of 1978.

"(g) Relationship to Existing Federal and State Laws and International Treaties.—Nothing in this section shall be construed to affect the jurisdiction, powers, or prerogatives of any department, agency, or officer of the Federal Government or of any State government, or of any tribe, nor any powers, jurisdiction, or prerogatives of any international body created by treaty with authority relating to the Great Lakes.

"(h) Authorizations of Great Lakes Appropriations.—There are authorized to be appropriated to the Administrator to carry out this section not to exceed $11,000,000 per fiscal year for the fiscal years 1987, 1988, 1989, 1990, and 1991. Of the amounts appropriated each fiscal year—

"(1) 40 percent shall be used by the Great Lakes National Program Office on demonstration projects on the feasibility of controlling and removing toxic pollutants;

"(2) 7 percent shall be used by the Great Lakes National Program Office for the program of nutrient monitoring; and

"(3) 30 percent shall be transferred to the National Oceanic and Atmospheric Administration for use by the Great Lakes Research Office.".

SEC. 106. RESEARCH ON EFFECTS OF POLLUTANTS.

In carrying out the provisions of section 104(a) of the Federal Water Pollution Control Act, the Administrator shall conduct research on the harmful effects on the health and welfare of persons caused by pollutants in water, in conjunction with the United States Fish and Wildlife Service, the National Oceanic and Atmospheric Administration, and other Federal, State, and interstate agencies carrying on such research. Such research shall include, and shall place special emphasis on, the effect that bioaccumulation of these pollutants in aquatic species has upon reducing the value of aquatic commercial and sport industries. Such research shall further study methods to reduce and remove these pollutants from the relevant affected aquatic species so as to restore and enhance these valuable resources.

TITLE II—CONSTRUCTION GRANTS AMENDMENTS

SEC. 201. TIME LIMIT ON RESOLVING CERTAIN DISPUTES.

Section 201 is amended by adding at the end thereof the following new subsection:

"(p) Time Limit on Resolving Certain Disputes.—In any case in which a dispute arises with respect to the awarding of a contract for construction of treatment works by a grantee of funds under this title and a party to such dispute files an appeal with the Administrator under this title for resolution of such dispute, the Administrator shall make a final decision on such appeal within 90 days of the filing of such appeal.".

SEC. 202. FEDERAL SHARE.

(a) Limitation on Eligibility After 1990.—The last sentence of section 202(a)(1) is amended by inserting before the period at the end the following: "for any grant made pursuant to a State obligation which obligation occurred before October 1, 1990".

(b) Projects Under Judicial Injunction.—Section 202(a)(1) is amended by adding at the end thereof the following: "Notwithstanding the first sentence of this paragraph, in the case of a project for which an application for a grant under this title has been made to the Administrator before October 1, 1984, and which project is under judicial injunction on such date prohibiting its construction, such project shall be eligible for grants at 75 percent of the cost of construction thereof.".

(c) Projects Under Judicial Order and Other Projects.—Section 202(a)(1) is amended by adding at the end thereof the following: "Notwithstanding the first sentence of this paragraph, in the case of the Wyoming Valley Sanitary Authority project mandated by judicial order under a proceeding begun prior to October 1, 1984, and a project for wastewater treatment for Altoona, Pennsylvania, such projects shall be eligible for grants at 75 percent of the cost of construction thereof.".

(d) Biodisc Equipment.—Section 202(a)(3) is amended by adding at the end thereof the following: "In addition, the Administrator is authorized to make a grant to fund all of the costs of the modification or replacement of biodisc equipment (rotating biological contactors) in any publicly owned treatment works if the Administrator finds that such equipment has failed to meet design performance specifications, unless such failure is attributable to negligence on the part of any person, and if such failure has significantly increased capital or operating and maintenance expenditures.".

(e) Innovative Process.—The activated bio-filter feature of the project for treatment works of the city of Little Falls, Minnesota, shall be deemed to be an innovative wastewater process and technique for purposes of section 202(a)(2) of the Federal Water Pollution Control Act and the amount of any grant under such Act for such feature shall be 85 percent of the cost thereof.

(f) Availability of Certain Funds for Non-Federal Share.—Notwithstanding any other provision of law, Federal assistance made available by the Farmers Home Administration to any political subdivision of a State may be used to provide the non-Federal share of the cost of any construction project carried out under section 201 of the Federal Water Pollution Control Act.

SEC. 203. AGREEMENT ON ELIGIBLE COSTS.

Section 203(a) is amended by inserting "(1)" after "(a)", by designating the last sentence as paragraph (3) and indenting such sentence as a paragraph, and by inserting before paragraph (3) as so designated the following:

"(2) Agreement on Eligible Costs.—

"(A) Limitation on Modifications.—Before taking final action on any plans, specifications, and estimates submitted under this subsection after the 60th day following the date of the enactment of the Water Quality Act of 1987, the Administrator shall enter into a written agreement with the applicant which establishes and specifies which items of the proposed project are eligible for Federal payments under this section. The Administrator may not later modify such eligibility determinations unless they are found to have been made in violation of applicable Federal statutes and regulations.

"(B) Limitation on Effect.—Eligibility determinations under this paragraph shall not preclude the Administrator from auditing a project pursuant to section 501 of this Act, or other authority, or from withholding or recovering Federal funds for costs which are found to be unreasonable, unsupported by adequate documentation, or otherwise unallowable under applicable Federal cost principles, or which are incurred on a project which fails to meet the design specifications or effluent limitations contained in the grant agreement and permit pursuant to section 402 of this Act for such project.".

SEC. 204. DESIGN/BUILD PROJECTS.

Section 203 is amended by adding at the end the following new subsection:

"(f) Design/Build Projects.—

"(1) Agreement.—Consistent with State law, an applicant who proposes to construct waste water treatment works may enter into an agreement with the Administrator under this subsection providing for the preparation of construction plans and specifications and the erection of such treatment works, in lieu of proceeding under the other provisions of this section.

"(2) Limitation on projects.—Agreements under this subsection shall be limited to projects under an approved facility plan which projects are—

"(A) treatment works that have an estimated total cost of $8,000,000 or less; and

"(B) any of the following types of waste water treatment systems: aerated lagoons, trickling filters, stabilization ponds, land application systems, sand filters, and subsurface disposal systems.

"(3) Required terms.—An agreement entered into under this subsection shall—

"(A) set forth an amount agreed to as the maximum Federal contribution to the project, based upon a competitively bid document of basic design data and applicable standard construction specifications and a determination of the federally eligible costs of the project at the applicable Federal share under section 202 of this Act;

"(B) set forth dates for the start and completion of construction of the treatment works by the applicant and a schedule of payments of the Federal contribution to the project;

"(C) contain assurances by the applicant that (i) engineering and management assistance will be provided to manage the project; (ii) the proposed treatment works will be an operable unit and will meet all the requirements of this title; and (iii) not later than 1 year after the date specified as the date of completion of construction of the treatment works, the treatment works will be operating so as to meet the requirements of any applicable permit for such treatment works under section 402 of this Act;

"(D) require the applicant to obtain a bond from the contractor in an amount determined necessary by the Administrator to protect the Federal interest in the project; and

"(E) contain such other terms and conditions as are necessary to assure compliance with this title (except as provided in paragraph (4) of this subsection).

"(4) Limitation on application.—Subsections (a), (b), and (c) of this section shall not apply to grants made pursuant to this subsection.

"(5) Reservation to assure compliance.—The Administrator shall reserve a portion of the grant to assure contract compliance until final project approval as defined by the Administrator. If the amount agreed to under paragraph (3)(A) exceeds the cost of designing and constructing the treatment works, the Administrator shall reallot the amount of the excess to the State in which such treatment works are located for the fiscal year in which such audit is completed.

"(6) Limitation on obligations.—The Administrator shall not obligate more than 20 percent of the amount allotted to a State for a fiscal year under section 205 of this Act for grants pursuant to this subsection.

"(7) Allowance.—The Administrator shall determine an allowance for facilities planning for projects constructed under this subsection in accordance with section 201(l).

"(8) Limitation on Federal contributions.—In no event shall the Federal contribution for the cost of preparing construction plans and specifications and the building and erection of treatment works pursuant to this subsection exceed the amount agreed upon under paragraph (3).

"(9) Recovery action.—In any case in which the recipient of a grant made pursuant to this subsection does not comply with the terms of the agreement entered into under paragraph (3), the Administrator is authorized to take such action as may be necessary to recover the amount of the Federal contribution to the project.

"(10) Prevention of double benefits.—A recipient of a grant made pursuant to this subsection shall not be eligible for any other grants under this title for the same project.".

SEC. 205. GRANT CONDITIONS; USER CHARGES ON LOW-INCOME RESIDENTIAL USERS.

(a) Inclusion of Project in Areawide Plan.—Section 204(a)(1) is amended to read as follows:

"(1) that any required areawide waste treatment management plan under section 208 of this Act (A) is being implemented for such area and the proposed treatment works are included in such plan, or (B) is being developed for such area and reasonable progress is being made toward its implementation and the proposed treatment works will be included in such plan;".

(b) Continuing Planning Process.—Section 204(a)(2) is amended to read as follows:

"(2) that (A) the State in which the project is to be located (i) is implementing any required plan under section 303(e) of this Act and the proposed treatment works are in conformity with such plan, or (ii) is developing such a plan and the proposed treatment works will be in conformity with such plan, and (B) such State is in compliance with section 305(b) of this Act;".

(c) User Charges on Low-Income Residential Users.—Section 204(b)(1) is amended by adding at the end thereof the following: "A system of user charges which imposes a lower charge for low-income residential users (as defined by the Administrator) shall be deemed to be a user charge system meeting the requirements of clause (A) of this paragraph if the Administrator determines that such system was adopted after public notice and hearing.".

(d) Effective Date.—This section shall take effect on the date of the enactment of this Act, except that the amendments made by subsections (a) and (b) shall take effect on the last day of the two-year period beginning on such date of enactment.

SEC. 206. ALLOTMENT FORMULA.

(a) Formula.—

(1) Extension of existing formula for 1986.—Section 205(c)(2) is amended by striking out "and September 30, 1985," and inserting in lieu thereof "September 30, 1985, and September 30, 1986,".

(2) Fiscal years 1987-1990.—Section 205(c) is amended by adding at the end the following new paragraph:

"(3) Fiscal years 1987-1990.—Sums authorized to be appropriated pursuant to section 207 for the fiscal years 1987, 1988, 1989, and 1990 shall be allotted for each such year by the Administrator not later than the 10th day which begins after the date of the enactment of this paragraph. Sums authorized for such fiscal years shall be allotted in accordance with the following table:

"States:

Alabama	.011309
Alaska	.006053
Arizona	.006831
Arkansas	.006616
California	.072333
Colorado	.008090
Connecticut	.012390
Delaware	.004965
District of Columbia	.004965
Florida	.034139
Georgia	.017100
Hawaii	.007833
Idaho	.004965
Illinois	.045741
Indiana	.024374
Iowa	.013688
Kansas	.009129
Kentucky	.012872
Louisiana	.011118
Maine	.007829
Maryland	.024461
Massachusetts	.034338
Michigan	.043487
Minnesota	.018589
Mississippi	.009112
Missouri	.028037
Montana	.004965
Nebraska	.005173
Nevada	.004965
New Hampshire	.010107
New Jersey	.041329
New Mexico	.004965
New York	.111632
North Carolina	.018253
North Dakota	.004965
Ohio	.056936
Oklahoma	.008171
Oregon	.011425
Pennsylvania	.040062
Rhode Island	.006791
South Carolina	.010361
South Dakota	.004965
Tennessee	.014692
Texas	.046226
Utah	.005329
Vermont	.004965
Virginia	.020698
Washington	.017588
West Virginia	.015766
Wisconsin	.027342
Wyoming	.004965
American Samoa	.000908
Guam	.000657
Northern Marianas	.000422
Puerto Rico	.013191
Pacific Trust Territories	.001295
Virgin Islands	.000527".

(b) Extension of Minimum Allotments.—Section 205(e) is amended by striking out "and 1985" each place it appears and inserting in lieu thereof "1985, 1986, 1987, 1988, 1989, and 1990".

(c) Costs of Administration.—Section 205(g)(1) is amended by striking out "October 1, 1985" and inserting in lieu thereof "October 1, 1994".

(d) Control of Pollutants From Storm Sewers.—Section 211(c) is amended by striking out "1985," and inserting in lieu thereof "1990,".

SEC. 207. RURAL SET ASIDE.

(a) Increase in Mandatory Set Aside for Rural States.—The first sentence of section 205(h) is amended by striking out "four per centum" and inserting in lieu thereof "a total (as determined by the Governor of the State) of not less than 4 percent nor more than 7½ percent".

(b) Increase in Authorized Set Aside for Other States.—The second sentence of section 205(h) is amended by striking out "four per centum" and inserting in lieu thereof "7½ percent".

SEC. 208. INNOVATIVE AND ALTERNATIVE PROJECTS.

Section 205(i) is amended to read as follows:

"(i) Set-Aside for Innovative and Alternative Projects.—Not less than ½ of 1 percent of funds allotted to a State for each of the fiscal years ending September 30, 1979, through September 30, 1990, under subsection (c) of this section shall be expended only for increasing the Federal share of grants for construction of treatment works utilizing innovative processes and techniques pursuant to section 202(a)(2) of this Act. Including the expenditures authorized by the preceding sentence, a total of 2 percent of the funds allotted to a State for each of the fiscal years ending September 30, 1979, and September 30, 1980, and 3 percent of the funds allotted to a State for the fiscal year ending September 30, 1981, under subsection (c) of this section shall be expended only for increasing grants for construction of treatment works pursuant to section 202(a)(2) of this Act. Including the expenditures authorized by the first sentence of this subsection, a total (as determined by the Governor of the State) of not less than 4 percent nor more than 7½ percent of the funds allotted to such State under subsection (c) of this section for each of the fiscal years ending September 30, 1982, through September 30, 1990, shall be expended only for increasing the Federal share of grants for construction of treatment works pursuant to section 202(a)(2) of this Act.".

SEC. 209. REGIONAL ORGANIZATION FUNDING.

Section 205(j)(3) is amended by adding at the end thereof the following: "In giving such priority, the State shall allocate at least 40 percent of the amount granted to such State for a fiscal year under paragraph (2) of this subsection to regional public comprehensive planning organizations in such State and appropriate interstate organizations for the development and implementation of the plan described in this paragraph. In any fiscal year for which the Governor, in consultation with such organizations and with the approval of the Administrator, determines that allocation of at least 40 percent of such amount to such organizations will not result in significant participation by such organizations in water quality management planning and not significantly assist in development and implementation of the plan described in this paragraph and achieving the goals of this Act, the allocation to such organization may be less than 40 percent of such amount.".

SEC. 210. MARINE CSO'S AND ESTUARIES.

Section 205 is amended by adding at the end thereof the following new subsection:

"(l) Marine Estuary Reservation.—

"(1) Reservation of funds.—

"(A) General rule.—Prior to making allotments among the States under subsection (c) of this section, the Administrator shall reserve funds from sums appropriated pursuant to section 207 for each fiscal year beginning after September 30, 1986.

"(B) Fiscal years 1987 and 1988.—For each of fiscal years 1987 and 1988 the reservation shall be 1 percent of the sums appropriated pursuant to section 207 for such fiscal year.

"(C) Fiscal years 1989 and 1990.—For each of fiscal years 1989 and 1990 the reservation shall be 1½ percent of the funds appropriated pursuant to section 207 for such fiscal year.

"(2) Use of funds.—Of the sums reserved under this subsection, two-thirds shall be available to address water quality problems of marine bays and estuaries subject to lower levels of water quality due to the impacts of discharges from combined storm water and sanitary sewer overflows from adjacent urban complexes, and one-third shall be available for the implementation of section 320 of this Act, relating to the national estuary program.

"(3) Period of availability.—Sums reserved under this subsection shall be subject to the period of availability for obligation established by subsection (d) of this section.

"(4) Treatment of certain body of water.—For purposes of this section and section 201(n), Newark Bay, New Jersey, and the portion of the Passaic River up to Little Falls, in the vicinity of Beatties Dam, shall be treated as a marine bay and estuary.".

SEC. 211. AUTHORIZATIONS FOR CONSTRUCTION GRANTS.

Section 207 is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "; and for each of the fiscal years ending September 30, 1986, September 30, 1987, and September 30, 1988, not to exceed $2,400,000,000; and for each of the fiscal years ending September 30, 1989, and September 30, 1990, not to exceed $1,200,000,000.".

SEC. 212. STATE WATER POLLUTION CONTROL REVOLVING FUNDS.

(a) Establishment of Program.—The Act is amended by adding at the end thereof the following new title:

"TITLE VI—STATE WATER POLLUTION CONTROL REVOLVING FUNDS

"SEC. 601. GRANTS TO STATES FOR ESTABLISHMENT OF REVOLVING FUNDS.

"(a) General Authority.—Subject to the provisions of this title, the Administrator shall make capitalization grants to each State for the purpose of establishing a water pollution control revolving fund for providing assistance (1) for construction of treatment works (as defined in section 212 of this Act) which are publicly owned, (2) for implementing a management program under section 319, and (3) for developing and implementing a conservation and management plan under section 320.

"(b) Schedule of Grant Payments.—The Administrator and each State shall jointly establish a schedule of payments under which the Administrator will pay to the State the amount of each grant to be made to the State under this title. Such schedule shall be based on the State's intended use plan under section 606(c) of this Act, except that—

"(1) such payments shall be made in quarterly installments, and

"(2) such payments shall be made as expeditiously as possible, but in no event later than the earlier of—

"(A) 8 quarters after the date such funds were obligated by the State, or

"(B) 12 quarters after the date such funds were allotted to the State.

"SEC. 602. CAPITALIZATION GRANT AGREEMENTS.

"(a) General Rule.—To receive a capitalization grant with funds made available under this title and section 205(m) of this Act, a State shall enter into an agreement with the Administrator which shall include but not be limited to the specifications set forth in subsection (b) of this section.

"(b) Specific Requirements.—The Administrator shall enter into an agreement under this section with a State only after the State has established to the satisfaction of the Administrator that—

"(1) the State will accept grant payments with funds to be made available under this title and section 205(m) of this Act in accordance with a payment schedule established jointly by the Administrator under section 601(b) of this Act and will deposit all such payments in the water pollution control revolving fund established by the State in accordance with this title;

"(2) the State will deposit in the fund from State moneys an amount equal to at least 20 percent of the total amount of all capitalization grants which will be made to the State with funds to be made available under this title and section 205(m) of this Act on or before the date on which each quarterly grant payment will be made to the State under this title;

"(3) the State will enter into binding commitments to provide assistance in accordance with the requirements of this title in an amount equal to 120 percent of the amount of each such grant payment within 1 year after the receipt of such grant payment;

"(4) all funds in the fund will be expended in an expeditious and timely manner;

"(5) all funds in the fund as a result of capitalization grants under this title and section 205(m) of this Act will first be used to assure maintenance of progress, as determined by the Governor of the State, toward compliance with enforceable deadlines, goals, and requirements of this Act, including the municipal compliance deadline;

"(6) treatment works eligible under section 603(c)(1) of this Act which will be constructed in whole or in part before fiscal year 1995 with funds directly made available by capitalization grants under this title and section 205(m) of this Act will meet the requirements of, or otherwise be treated (as determined by the Governor of the State) under sections 201(b), 201(g)(1), 201(g)(2), 201(g)(3), 201(g)(5), 201(g)(6), 201(n)(1), 201(o), 204(a)(1), 204(a)(2), 204(b)(1), 204(d)(2), 211, 218, 511(c)(1), and 513 of this Act in the same manner as treatment works constructed with assistance under title II of this Act;

"(7) in addition to complying with the requirements of this title, the State will commit or expend each quarterly grant payment which it will receive under this title in accordance with laws and procedures applicable to the commitment or expenditure of revenues of the State;

"(8) in carrying out the requirements of section 606 of this Act, the State will use accounting, audit, and fiscal procedures conforming to generally accepted government accounting standards;

"(9) the State will require as a condition of making a loan or providing other assistance, as described in section 603(d) of this Act, from the fund that the recipient of such assistance will maintain project accounts in accordance with generally accepted government accounting standards; and

"(10) the State will make annual reports to the Administrator on the actual use of funds in accordance with section 606(d) of this Act.

"SEC. 603. WATER POLLUTION CONTROL REVOLVING LOAN FUNDS.

"(a) Requirements for Obligation of Grant Funds.—Before a State may receive a capitalization grant with funds made available under this title and section 205(m) of this Act, the State shall first establish a water pollution control revolving fund which complies with the requirements of this section.

"(b) Administration.—Each State water pollution control revolving fund shall be administered by an instrumentality of the State with such powers and limitations as may be required to operate such fund in accordance with the requirements and objectives of this Act.

"(c) Projects Eligible for Assistance.—The amounts of funds available to each State water pollution control revolving fund shall be used only for providing financial assistance (1) to any municipality, intermunicipal, interstate, or State agency for construction of publicly owned treatment works (as defined in section 212 of this Act), (2) for the implementation of a management program established under section 319 of this Act, and (3) for development and implementation of a conservation and management plan under section 320 of this Act. The fund shall be established, maintained, and credited with repayments, and the fund balance shall be available in perpetuity for providing such financial assistance.

"(d) Types of Assistance.—Except as otherwise limited by State law, a water pollution control revolving fund of a State under this section may be used only—

"(1) to make loans, on the condition that—

"(A) such loans are made at or below market interest rates, including interest free loans, at terms not to exceed 20 years;

"(B) annual principal and interest payments will commence not later than 1 year after completion of any project and all loans will be fully amortized not later than 20 years after project completion;

"(C) the recipient of a loan will establish a dedicated source of revenue for repayment of loans; and

"(D) the fund will be credited with all payments of principal and interest on all loans;

"(2) to buy or refinance the debt obligation of municipalities and intermunicipal and interstate agencies within the State at or below market rates, where such debt obligations were incurred after March 7, 1985;

"(3) tq guarantee, or purchase insurance for, local obligations where such action would improve credit market access or reduce interest rates;

"(4) as a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the State if the proceeds of the sale of such bonds will be deposited in the fund;

"(5) to provide loan guarantees for similar revolving funds established by municipalities or intermunicipal agencies;

"(6) to earn interest on fund accounts; and

"(7) for the reasonable costs of administering the fund and conducting activities under this title, except that such amounts shall not exceed 4 percent of all grant awards to such fund under this title.

"(e) Limitation To Prevent Double Benefits.—If a State makes, from its water pollution revolving fund, a loan which will finance the cost of facility planning and the preparation of plans, specifications, and estimates for construction of publicly owned treatment works, the State shall ensure that if the recipient of such loan receives a grant under section 201(g) of this Act for construction of such treatment works and an allowance under section 201(l)(1) of this Act for non-Federal funds expended for such planning and preparation, such recipient will promptly repay such loan to the extent of such allowance.

"(f) Consistency With Planning Requirements.—A State may provide financial assistance from its water pollution control revolving fund only with respect to a project which is consistent with plans, if any, developed under sections 205(j), 208, 303(e), 319, and 320 of this Act.

"(g) Priority List Requirement.—The State may provide financial assistance from its water pollution control revolving fund only with respect to a project for construction of a treatment works described in subsection (c)(1) if such project is on the State's priority list under section 216 of this Act. Such assistance may be provided regardless of the rank of such project on such list.

"(h) Eligibility of Non-Federal Share of Construction Grant Projects.—A State water pollution control revolving fund may provide assistance (other than under subsection (d)(1) of this section) to a municipality or intermunicipal or interstate agency with respect to the non-Federal share of the costs of a treatment works project for which such municipality or agency is receiving assistance from the Administrator under any other authority only if such assistance is necessary to allow such project to proceed.

"SEC. 604. ALLOTMENT OF FUNDS.

"(a) Formula.—Sums authorized to be appropriated to carry out this section for each of fiscal years 1989 and 1990 shall be allotted by the Administrator in accordance with section 205(c) of this Act.

"(b) Reservation of Funds for Planning.—Each State shall reserve each fiscal year 1 percent of the sums allotted to such State under this section for such fiscal year, or $100,000, whichever amount is greater, to carry out planning under sections 205(j) and 303(e) of this Act.

"(c) Allotment Period.—

"(1) Period of availability for grant award.—Sums allotted to a State under this section for a fiscal year shall be available for obligation by the State during the fiscal year for which sums are authorized and during the following fiscal year.

"(2) Reallotment of unobligated funds.—The amount of any allotment not obligated by the State by the last day of the 2-year period of availability established by paragraph (1) shall be immediately reallotted by the Administrator on the basis of the same ratio as is applicable to sums allotted under title II of this Act for the second fiscal year of such 2-year period. None of the funds reallotted by the Administrator shall be reallotted to any State which has not obligated all sums allotted to such State in the first fiscal year of such 2-year period.

"SEC. 605. CORRECTIVE ACTION.

"(a) Notification of Noncompliance.—If the Administrator determines that a State has not complied with its agreement with the Administrator under section 602 of this Act or any other requirement of this title, the Administrator shall notify the State of such noncompliance and the necessary corrective action.

"(b) Withholding of Payments.—If a

State does not take corrective action within 60 days after the date a State receives notification of such action under subsection (a), the Administrator shall withhold additional payments to the State until the Administrator is satisfied that the State has taken the necessary corrective action.

"(c) Reallotment of Withheld Payments.—If the Administrator is not satisfied that adequate corrective actions have been taken by the State within 12 months after the State is notified of such actions under subsection (a), the payments withheld from the State by the Administrator under subsection (b) shall be made available for reallotment in accordance with the most recent formula for allotment of funds under this title.

"SEC. 606. AUDITS, REPORTS, AND FISCAL CONTROLS; INTENDED USE PLAN.

"(a) Fiscal Control and Auditing Procedures.—Each State electing to establish a water pollution control revolving fund under this title shall establish fiscal controls and accounting procedures sufficient to assure proper accounting during appropriate accounting periods for—

"(1) payments received by the fund;

"(2) disbursements made by the fund; and

"(3) fund balances at the beginning and end of the accounting period.

"(b) Annual Federal Audits.—The Administrator shall, at least on an annual basis, conduct or require each State to have independently conducted reviews and audits as may be deemed necessary or appropriate by the Administrator to carry out the objectives of this section. Audits of the use of funds deposited in the water pollution revolving fund established by such State shall be conducted in accordance with the auditing procedures of the General Accounting Office, including chapter 75 of title 31, United States Code.

"(c) Intended Use Plan.—After providing for public comment and review, each State shall annually prepare a plan identifying the intended uses of the amounts available to its water pollution control revolving fund. Such intended use plan shall include, but not be limited to—

"(1) a list of those projects for construction of publicly owned treatment works on the State's priority list developed pursuant to section 216 of this Act and a list of activities eligible for assistance under sections 319 and 320 of this Act;

"(2) a description of the short- and long-term goals and objectives of its water pollution control revolving fund;

"(3) information on the activities to be supported, including a description of project categories, discharge requirements under titles III and IV of this Act, terms of financial assistance, and communities served;

"(4) assurances and specific proposals for meeting the requirements of paragraphs (3), (4), (5), and (6) of section 602(b) of this Act; and

"(5) the criteria and method established for the distribution of funds.

"(d) Annual Report.—Beginning the first fiscal year after the receipt of payments under this title, the State shall provide an annual report to the Administrator describing how the State has met the goals and objectives for the previous fiscal year as identified in the plan prepared for the previous fiscal year pursuant to subsection (c), including identification of loan recipients, loan amounts, and loan terms and similar details on other forms of financial assistance provided from the water pollution control revolving fund.

"(e) Annual Federal Oversight Review.—The Administrator shall conduct an annual oversight review of each State plan prepared under subsection (c), each State report prepared under subsection (d), and other such materials as are considered necessary and appropriate in carrying out the purposes of this title. After reasonable notice by the Administrator to the State or the recipient of a loan from a water pollution control revolving fund, the State or loan recipient shall make available to the Administrator such records as the Administrator reasonably requires to review and determine compliance with this title.

"(f) Applicability of Title II Provisions.—Except to the extent provided in this title, the provisions of title II shall not apply to grants under this title.

"SEC. 607. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out the purposes of this title the following sums:

"(1) $1,200,000,000 per fiscal year for each of fiscal years 1989 and 1990;

"(2) $2,400,000,000 for fiscal year 1991;

"(3) $1,800,000,000 for fiscal year 1992;

"(4) $1,200,000,000 for fiscal year 1993; and

"(5) $600,000,000 for fiscal year 1994.".

(b) State-Option To Use Title II Funds.—Section 205 is amended by adding at the end thereof the following new subsection:

"(m) Discretionary Deposits Into State Water Pollution Control Revolving Funds.—

"(1) From construction grant allotments.—In addition to any amounts deposited in a water pollution control revolving fund established by a State under title VI, upon request of the Governor of such State, the Administrator shall make available to the State for deposit, as capitalization grants, in such fund in any fiscal year beginning after September 30, 1986, such portion of the amounts allotted to such State under this section for such fiscal year as the Governor considers appropriate; except that (A) in fiscal year 1987, such deposit may not exceed 50 percent of the amounts allotted to such State under this section for such fiscal year, and (B) in fiscal year 1988, such deposit may not exceed 75 percent of the amounts allotted to such State under this section for this fiscal year.

"(2) Notice requirement.—The Governor of a State may make a request under paragraph (1) for a deposit into the water pollution control revolving fund of such State—

"(A) in fiscal year 1987 only if no later than 90 days after the date of the enactment of this subsection, and

"(B) in each fiscal year thereafter only if 90 days before the first day of such fiscal year,

the State provides notice of its intent to make such deposit.

"(3) Exception.—Sums reserved under section 205(j) of this Act shall not be available for obligation under this subsection.".

(c) Report to Congress.—Section 516 is amended by adding at the end thereof the following new subsection:

"(g) State Revolving Fund Report.—

"(1) In general.—Not later than February 10, 1990, the Administrator shall submit to Congress a report on the financial status and operations of water pollution control revolving funds established by the States under title VI of this Act. The Administrator shall prepare such report in cooperation with the States, including water pollution control agencies and other water pollution control planning and financing agencies.

"(2) CONTENTS.—The report under this subsection shall also include the following:

"(A) an inventory of the facilities that are in significant noncompliance with the enforceable requirements of this Act;

"(B) an estimate of the cost of construction necessary to bring such facilities into compliance with such requirements;

"(C) an assessment of the availability of sources of funds for financing such needed construction, including an estimate of the amount of funds available for providing assistance for such construction through September 30, 1999, from the water pollution control revolving funds established by the States under title VI of this Act;

"(D) an assessment of the operations, loan portfolio, and loan conditions of such revolving funds;

"(E) an assessment of the effect on user charges of the assistance provided by such revolving funds compared to the assistance provided with funds appropriated pursuant to section 207 of this Act; and

"(F) an assessment of the efficiency of the operation and maintenance of treatment works constructed with assistance provided by such revolving funds compared to the efficiency of the operation and maintenance of treatment works constructed with assistance provided under section 201 of this Act.".

SEC. 213. IMPROVEMENT PROJECTS.

(a) AVALON, CALIFORNIA.—The Administrator shall make a grant of $3,000,000 from funds allotted under section 205 of the Federal Water Pollution Control Act to the State of California for fiscal year 1987 to the city of Avalon, California, for improvements to the publicly owned treatment works of such city.

(b) WALKER AND SMITHFIELD TOWNSHIPS, PENNSYLVANIA.—Out of funds available for grants in the State of Pennsylvania under the third sentence of section 201(g)(1) of the Federal Water Pollution Control Act in fiscal year 1987, the Administrator shall make grants—

(1) to Walker Township, Pennsylvania, for developing a collector system and connecting its wastewater treatment system into the Huntingdon Borough, Pennsylvania, sewage treatment plant, and

(2) to Smithfield Township, Pennsylvania, for rehabilitating and extending its collector system.

(c) TAYLOR MILL, KENTUCKY.—Notwithstanding section 201(g)(1) of the Federal Water Pollution Control Act or any other provision of law, the Administrator shall make a grant of $250,000 from funds allotted under section 205 of such Act to the State of Kentucky for fiscal year 1986 to the city of Taylor Mill, Kentucky, for the repair and reconstruction, as necessary, of the publicly owned treatment works of such city.

(d) NEVADA COUNTY, CALIFORNIA.—Out of funds available for grants in the State of California under the third sentence of section 201(g)(1) of the Federal Water Pollution Control Act in fiscal year 1987, the Administrator shall make a grant for the construction of a collection system serving the Glenshire/Devonshire area of Nevada County, California, to deliver waste to the Tahoe-Truckee Sanitary District's regional wastewater treatment facility.

(e) TREATMENT WORKS FOR WANAQUE, NEW JERSEY.—In fiscal year 1987 and succeeding fiscal years, the Administrator shall make grants to the Wanaque Valley Regional Sewerage Authority, New Jersey, from funds allotted under section 205 of the Federal Water Pollution Control Act to the State of New Jersey for such fiscal year, for the construction of treatment works with a total treatment capacity of 1,050,000 gallons per day (including a treatment module with a treatment capacity of 350,000 gallons per day). Notwithstanding section 202 of such Act, the Federal share of the cost of construction of such treatment works shall be 75 percent.

(f) TREATMENT WORKS FOR LENA, ILLINOIS.—The Administrator shall make grants to the village of Lena, Illinois, from funds allotted under section 205 of the Federal Water Pollution Control Act to the State of Illinois for fiscal years beginning after September 30, 1986, for the construction of a replacement moving bed filter press for the treatment works of such village. Notwithstanding section 202 of the Federal Water Pollution Control Act, the Federal share of the cost of construction of such project shall be 75 percent.

(g) PRIORITY FOR COURT-ORDERED AND OTHER PROJECTS.—The State of Pennsylvania, from funds allotted to it under section 205 of the Federal Water Pollution Control Act, shall give priority for construction of—

(1) the Wyoming Valley Sanitary Authority Secondary Treatment project mandated under Federal court order, regardless of the date of start of construction made pursuant to the court order; and

(2) a project for wastewater treatment for Altoona, Pennsylvania.

SEC. 214. CHICAGO TUNNEL AND RESERVOIR PROJECT.

The Chicago tunnel and reservoir project may receive grants under the last sentence of section 201(g)(1) of the Federal Water Pollution Control Act without regard to the limitation contained in such sentence if the Administrator determines that such project meets the cost-effectiveness requirements of sections 217 and 218 of such Act without any redesign or reconstruction and if the Governor of the affected State demonstrates to the satisfaction of the Administrator the water quality benefits of such project.

SEC. 215. AD VALOREM TAX DEDICATION.

For the purposes of complying with section 204(b)(1) of the Federal Water Pollution Control Act, the ad valorem tax user charge systems of the town of Hampton and the city of Nashua, New Hampshire, shall be deemed to have been dedicated as of December 27, 1977. The Administrator shall review such ad valorem tax user charge systems for compliance with the remaining requirements of such section and related regulations of the Environmental Protection Agency.

TITLE III—STANDARDS AND ENFORCEMENTS

SEC. 301. COMPLIANCE DATES.

(a) PRIORITY TOXIC POLLUTANTS.—Section 301(b)(2)(C) is amended by striking out "not later than July 1, 1984," and inserting after "of this paragraph" the following: "as expeditiously as practicable but in no case later than three years after the date such limitations are promulgated under section 304(b), and in no case later than March 31, 1989".

(b) OTHER TOXIC POLLUTANTS.—Section 301(b)(2)(D) is amended by striking out "not later than three years after the date such limitations are established" and inserting in lieu thereof "as expeditiously as practicable, but in no case later than three years after the date such limitations are promulgated under section 304(b), and in no case later than March 31, 1989".

(c) Conventional Pollutants.—Section 301(b)(2)(E) is amended by striking "not later than July 1, 1984," and inserting in lieu thereof "as expeditiously as practicable but in no case later than three years after the date such limitations are promulgated under section 304(b), and in no case later than March 31, 1989, compliance with".

(d) Other Pollutants.—Section 301(b)(2)(F) is amended by striking "not" after "subparagraph (A) of this paragraph" and inserting in lieu thereof "as expeditiously as practicable but in no case", and by striking "or not later than July 1, 1984," and all that follows through the end of the sentence and inserting in lieu thereof "and in no case later than March 31, 1989.".

(e) Stricter BPT.—Section 301(b) is amended by adding at the end the following new paragraph:

"(3)(A) for effluent limitations under paragraph (1)(A)(i) of this subsection promulgated after January 1, 1982, and requiring a level of control substantially greater or based on fundamentally different control technology than under permits for an industrial category issued before such date, compliance as expeditiously as practicable but in no case later than three years after the date such limitations are promulgated under section 304(b), and in no case later than March 31, 1989; and

"(B) for any effluent limitation in accordance with paragraph (1)(A)(i), (2)(A)(i), or (2)(E) of this subsection established only on the basis of section 402(a)(1) in a permit issued after enactment of the Water Quality Act of 1987, compliance as expeditiously as practicable but in no case later than three years after the date such limitations are established, and in no case later than March 31, 1989.".

(f) Deadlines for Regulations for Certain Toxic Pollutants.—The Administrator shall promulgate final regulations establishing effluent limitations in accordance with sections 301(b)(2)(A) and 307(b)(1) of the Federal Water Pollution Control Act for all toxic pollutants referred to in table 1 of Committee Print Numbered 95-30 of the Committee on Public Works and Transportation of the House of Representatives which are discharged from the categories of point sources in accordance with the following table:

Category	Date by which the final regulation shall be promulgated
Organic chemicals and plastics and synthetic fibers.	December 31, 1986.
Pesticides	December 31, 1986.

SEC. 302. MODIFICATION FOR NONCONVENTIONAL POLLUTANTS.

(a) Listing of Pollutants.—Section 301(g) is amended by redesignating paragraph (2) (and any references thereto) as paragraph (3) and by striking out all that precedes subparagraph (A) of paragraph (1) and inserting in lieu thereof the following:

"(g) Modifications for Certain Nonconventional Pollutants.—

"(1) General authority.—The Administrator, with the concurrence of the State, may modify the requirements of subsection (b)(2)(A) of this section with respect to the discharge from any point source of ammonia, chlorine, color, iron, and total phenols (4AAP) (when determined by the Administrator to be a pollutant covered by subsection (b)(2)(F)) and any other pollutant which the Administrator lists under paragraph (4) of this subsection.

"(2) Requirements for granting modifications.—A modification under this subsection shall be granted only upon a showing by the owner or operator of a point source satisfactory to the Administrator that—".

(b) Procedure for Listing Additional Pollutants; Removal.—Section 301(g) is further amended by adding at the end thereof the following new paragraphs:

"(4) Procedures for listing additional pollutants.—

"(A) General authority.—Upon petition of any person, the Administrator may add any pollutant to the list of pollutants for which modification under this section is authorized (except for pollutants identified pursuant to section 304(a)(4) of this Act, toxic pollutants subject to section 307(a) of this Act, and the thermal component of discharges) in accordance with the provisions of this paragraph.

"(B) Requirements for listing.—

"(i) Sufficient information.—The person petitioning for listing of an additional pollutant under this subsection shall submit to the Administrator sufficient information to make the determinations required by this subparagraph.

"(ii) Toxic criteria determination.—The Administrator shall determine whether or not the pollutant meets the criteria for listing as a toxic pollutant under section 307(a) of this Act.

"(iii) Listing as toxic pollutant.—If the Administrator determines that the pollutant meets the criteria for listing as a toxic pollutant under section 307(a), the Administrator shall list the pollutant as a toxic pollutant under section 307(a).

"(iv) Nonconventional criteria determination.—If the Administrator determines that the pollutant does not meet the criteria for listing as a toxic pollutant under such section and determines that adequate test methods and sufficient data are available to make the determinations required by paragraph (2) of this subsection with respect to the pollutant, the Administrator shall add the pollutant to the list of pollutants specified in paragraph (1) of this subsection for which modifications are authorized under this subsection.

"(C) Requirements for filing of petitions.—A petition for listing of a pollutant under this paragraph—

"(i) must be filed not later than 270 days after the date of promulgation of an applicable effluent guideline under section 304;

"(ii) may be filed before promulgation of such guideline; and

"(iii) may be filed with an application for a modification under paragraph (1) with respect to the discharge of such pollutant.

"(D) Deadline for approval of petition.—A decision to add a pollutant to the list of pollutants for which modifications under this subsection are authorized must be made within 270 days after the date of promulgation of an applicable effluent guideline under section 304.

"(E) Burden of proof.—The burden of proof for making the determinations under subparagraph (B) shall be on the petitioner.

"(5) REMOVAL OF POLLUTANTS.—The Administrator may remove any pollutant from the list of pollutants for which modifications are authorized under this subsection if the Administrator determines that adequate test methods and sufficient data are no longer available for determining whether or not modifications may be granted with respect to such pollutant under paragraph (2) of this subsection.".

(c) DEADLINE FOR APPROVAL OF MODIFICATIONS.—Section 301(j) is amended—

(1) in paragraph (2) by striking out "Any" and inserting in lieu thereof "Subject to paragraph (3) of this section, any"; and

(2) by adding at the end thereof the following new paragraphs:

"(3) COMPLIANCE REQUIREMENTS UNDER SUBSECTION (g).—

"(A) EFFECT OF FILING.—An application for a modification under subsection (g) and a petition for listing of a pollutant as a pollutant for which modifications are authorized under such subsection shall not stay the requirement that the person seeking such modification or listing comply with effluent limitations under this Act for all pollutants not the subject of such application or petition.

"(B) EFFECT OF DISAPPROVAL.—Disapproval of an application for a modification under subsection (g) shall not stay the requirement that the person seeking such modification comply with all applicable effluent limitations under this Act.

"(4) DEADLINE FOR SUBSECTION (g) DECISION.—An application for a modification with respect to a pollutant filed under subsection (g) must be approved or disapproved not later than 365 days after the date of such filing; except that in any case in which a petition for listing such pollutant as a pollutant for which modifications are authorized under such subsection is approved, such application must be approved or disapproved not later than 365 days after the date of approval of such petition.".

(d) CONFORMING AMENDMENTS.—(1) Paragraph (3) of section 301(g), as redesignated by subsection (a) of this section, is amended by inserting "LIMITATION ON AUTHORITY TO APPLY FOR SUBSECTION (c) MODIFICATION.—" before "If an owner" and by aligning such paragraph with paragraph (4) of such section, as added by subsection (b) of this section.

(2) Paragraph (2) of section 301(g) (as designated by subsection (a) of this section) is amended by realigning subparagraphs (A), (B), and (C) with subparagraph (A) of paragraph (4), as added by subsection (b) of this section.

(e) APPLICATION.—

(1) GENERAL RULE.—Except as provided in paragraph (2), the amendments made by this section shall apply to all requests for modifications under section 301(g) of the Federal Water Pollution Control Act pending on the date of the enactment of this Act and shall not have the effect of extending the deadline established in section 301(j)(1)(B) of such Act.

(2) EXCEPTION.—The amendments made by this section shall not affect any application for a modification with respect to the discharge of ammonia, chlorine, color, iron, or total phenols (4AAP) under section 301(g) of the Federal Water Pollution Control Act pending on the date of the enactment of this Act; except that the Administrator must approve or disapprove such application not later than 365 days after the date of such enactment.

SEC. 303. DISCHARGES INTO MARINE WATERS.

(a) CONSIDERATION OF OTHER SOURCES OF POLLUTANTS.—Section 301(h)(2) is amended by striking out "such modified requirements will not interfere" and inserting in lieu thereof the following: "the discharge of pollutants in accordance with such modified requirements will not interfere, alone or in combination with pollutants from other sources,".

(b) LIMITATION ON SCOPE OF MONITORING.—

(1) GENERAL RULE.—Section 301(h)(3) is amended by inserting before the semicolon at the end thereof the following: ", and the scope of such monitoring is limited to include only those scientific investigations which are necessary to study the effects of the proposed discharge".

(2) LIMITATION ON APPLICABILITY.—The amendment made by subsection (b) shall only apply to modifications and renewals of modifications which are tentatively or finally approved after the date of the enactment of this Act.

(c) URBAN AREA PRETREATMENT PROGRAM.—Section 301(h) is amended by redesignating paragraphs (6) and (7), and any references thereto, as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) in the case of any treatment works serving a population of 50,000 or more, with respect to any toxic pollutant introduced into such works by an industrial discharger for which pollutant there is no applicable pretreatment requirement in effect, sources introducing waste into such works are in compliance with all applicable pretreatment requirements, the applicant will enforce such requirements, and the applicant has in effect a pretreatment program which, in combination with the treatment of discharges from such works, removes the same amount of such pollutant as would be removed if such works were to apply secondary treatment to discharges and if such works had no pretreatment program with respect to such pollutant;".

(d) PRIMARY TREATMENT FOR EFFLUENT.—

(1) GENERAL RULE.—Section 301(h) is amended by striking out the period at the end of paragraph (8) (as redesignated by subsection (c) of this section) and inserting in lieu thereof a semicolon and by inserting after such paragraph (8) the following new paragraph:

"(9) the applicant at the time such modification becomes effective will be discharging effluent which has received at least primary or equivalent treatment and which meets the criteria established under section 304(a)(1) of this Act after initial mixing in the waters surrounding or adjacent to the point at which such effluent is discharged.".

(2) PRIMARY OR EQUIVALENT TREATMENT DEFINED.—Such section is further amended by inserting after the second sentence the following new sentence: "For the purposes of paragraph (9), 'primary or equivalent treatment' means treatment by screening, sedimentation, and skimming adequate to remove at least 30 percent of the biological oxygen demanding material and of the suspended solids in the treatment works influent, and disinfection, where appropriate.".

(e) LIMITATIONS ON ISSUANCE OF PERMITS.—Section 301(h) is further amended by adding at the end thereof the following new sentences: "In order for a permit to be issued under this subsection for the discharge of a pollutant into marine waters, such marine waters must exhibit characteristics assuring that water providing dilution does not contain significant amounts of previously discharged effluent from such treatment works. No permit issued under this subsection shall authorize the discharge of any pollutant into saline estuarine waters which at the time of application do not support a balanced indigenous population of shellfish, fish and wildlife, or allow recreation in and on the waters or which exhibit ambient water quality below applicable water quality standards adopted for the protection of public water supplies, shellfish, fish and wildlife or recreational activities or such other standards necessary to assure support and protection of such uses. The prohibition contained in the preceding sentence shall apply without regard to the presence or absence of a causal relationship between such characteristics and the applicant's current or proposed discharge. Notwithstanding any other provisions of this subsection, no permit may be issued under this subsection for discharge of a pollutant into the New York Bight Apex consisting of the ocean waters of the Atlantic Ocean westward of 73 degrees 30 minutes west longitude and northward of 40 degrees 10 minutes north latitude.".

(f) APPLICATION FOR OCEAN DISCHARGE MODIFICATION.—Section 301(j)(1)(A) is amended by inserting before the semicolon at the end thereof the following: ", except that a publicly owned treatment works which prior to December 31, 1982, had a contractual arrangement to use a portion of the capacity of an ocean outfall operated by another publicly owned treatment works which has applied for or received modification under subsection (h), may apply for a modification of subsection (h) in its own right not later than 30 days after the date of the enactment of the Water Quality Act of 1987".

(g) GRANDFATHER OF CERTAIN APPLICANTS.—The amendments made by subsections (a), (c), (d), and (e) of this section shall not apply to an application for a permit under section 301(h) of the Federal Water Pollution Control Act which has been tentatively or finally approved by the Administrator before the date of the enactment of this Act; except that such amendments shall apply to all renewals of such permits after such date of enactment.

SEC. 304. FILING DEADLINE FOR TREATMENT WORKS MODIFICATION.

(a) EXTENSION.—The second sentence of section 301(i)(1) is amended by striking out "of this subsection." and inserting in lieu thereof "of the Water Quality Act of 1987.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall not apply to those treatment works which are subject to a compliance schedule established before the date of the enactment of this Act by a court order or a final administrative order.

SEC. 305. INNOVATIVE TECHNOLOGY COMPLIANCE DEADLINES FOR DIRECT DISCHARGERS.

(a) EXTENSION OF DEADLINE.—Section 301(k) is amended by striking out "July 1, 1987," and inserting in lieu thereof two years after the date for compliance with such effluent limitation which would otherwise be applicable under such subsection,".

(b) EXTENSION TO CONVENTIONAL POLLUTANTS.—Section 301(k) is amended by inserting "or (b)(2)(E)" after "(b)(2)(A)" each place it appears.

SEC. 306. FUNDAMENTALLY DIFFERENT FACTORS.

(a) GENERAL RULE.—Section 301 is amended by adding at the end the following new subsections:

"(n) FUNDAMENTALLY DIFFERENT FACTORS.—

"(1) GENERAL RULE.—The Administrator, with the concurrence of the State, may establish an alternative requirement under subsection (b)(2) or section 307(b) for a facility that modifies the requirements of national effluent limitation guidelines or categorical pretreatment standards that would otherwise be applicable to such facility, if the owner or operator of such facility demonstrates to the satisfaction of the Administrator that—

"(A) the facility is fundamentally different with respect to the factors (other than cost) specified in section 304(b) or 304(g) and considered by the Administrator in establishing such national effluent limitation guidelines or categorical pretreatment standards;

"(B) the application—

"(i) is based solely on information and supporting data submitted to the Administrator during the rulemaking for establishment of the applicable national effluent limitation guidelines or categorical pretreatment standard specifically raising the factors that are fundamentally different for such facility; or

"(ii) is based on information and supporting data referred to in clause (i) and information and supporting data the applicant did not have a reasonable opportunity to submit during such rulemaking·

"(C) the alternative requirement is no less stringent than justified by the fundamental difference; and

"(D) the alternative requirement will not result in a non-water quality environmental impact which is markedly more adverse than the impact considered by the Administrator in establishing such national effluent limitation guideline or categorical pretreatment standard.

"(2) TIME LIMIT FOR APPLICATIONS.—An application for an alternative requirement which modifies the requirements of an effluent limitation or pretreatment standard under this subsection must be submitted to the Administrator within 180 days after the date on which such limitation or standard is established or revised, as the case may be.

"(3) TIME LIMIT FOR DECISION.—The Administrator shall approve or deny by final agency action an application submitted under this subsection within 180 days after the date such application is filed with the Administrator.

"(4) SUBMISSION OF INFORMATION.—The Administrator may allow an applicant under this subsection to submit information and supporting data until the earlier of the date the application is approved or denied or the last day that the Administrator has to approve or deny such application.

"(5) TREATMENT OF PENDING APPLICATIONS.—For the purposes of this subsection, an application for an alternative requirement based on fundamentally different factors which is pending on the date of the enactment of this subsection shall be treated as having been submitted to the Administrator on the 180th day following such date of enactment. The applicant may amend the application to take into account the provisions of this subsection.

"(6) EFFECT OF SUBMISSION OF APPLICATION.—An application for an alternative requirement under this subsection shall not stay the applicant's obligation to comply with the effluent limitation guideline or categorical pretreatment standard which is the subject of the application.

"(7) Effect of denial.—If an application for an alternative requirement which modifies the requirements of an effluent limitation or pretreatment standard under this subsection is denied by the Administrator, the applicant must comply with such limitation or standard as established or revised, as the case may be.

"(8) Reports.—Every 6 months after the date of the enactment of this subsection, the Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the status of applications for alternative requirements which modify the requirements of effluent limitations under section 301 or 304 of this Act or any national categorical pretreatment standard under section 307(b) of this Act filed before, on, or after such date of enactment.

"(o) Application Fees.—The Administrator shall prescribe and collect from each applicant fees reflecting the reasonable administrative costs incurred in reviewing and processing applications for modifications submitted to the Administrator pursuant to subsections (c), (g), (i), (k), (m), and (n) of section 301, section 304(d)(4), and section 316(a) of this Act. All amounts collected by the Administrator under this subsection shall be deposited into a special fund of the Treasury entitled 'Water Permits and Related Services' which shall thereafter be available for appropriation to carry out activities of the Environmental Protection Agency for which such fees were collected.".

(b) Conforming Amendment.—Section 301(l) is amended by striking out "The" and inserting in lieu thereof "Other than as provided in subsection (n) of this section, the".

(c) Phosphate Fertilizer Effluent Limitation.—

(1) Limitation on applicability.—The effluent limitation established by the Administrator pursuant to section 301(b) of the Federal Water Pollution Control Act for the phosphate subcategory of the fertilizer manufacturing point source category shall not apply to facilities which had commenced construction on or before April 8, 1974, and for which the Administrator is proposing to revise the applicability of such limitations to exclude such facilities.

(2) Issuance of permit.—As soon as possible after the date of the enactment of this Act, but not later than 180 days after such date of enactment, the Administrator shall issue permits under section 402(a)(1)(B) of the Federal Water Pollution Control Act with respect to the facilities described in paragraph (1). Such permits shall remain in effect until, after such date of enactment, issuance of a permit under effluent guidelines applicable to discharges for the phosphate subcategory.

SEC. 307. COAL REMINING OPERATIONS.

Section 301 is amended by adding at the end thereof the following:

"(p) Modified Permit for Coal Remining Operations.—

"(1) In general.—Subject to paragraphs (2) through (4) of this subsection, the Administrator, or the State in any case which the State has an approved permit program under section 402(b), may issue a permit under section 402 which modifies the requirements of subsection (b)(2)(A) of this section with respect to the pH level of any pre-existing discharge, and with respect to pre-existing discharges of iron and manganese from the remined area of any coal remining operation or with respect to the pH level or level of iron or manganese in any pre-existing discharge affected by the remining operation. Such modified requirements shall apply the best available technology economically achievable on a case-by-case basis, using best professional judgment, to set specific numerical effluent limitations in each permit.

"(2) Limitations.—The Administrator or the State may only issue a permit pursuant to paragraph (1) if the applicant demonstrates to the satisfaction of the Administrator or the State, as the case may be, that the coal remining operation will result in the potential for improved water quality from the remining operation but in no event shall such a permit allow the pH level of any discharge, and in no event shall such a permit allow the discharges of iron and manganese, to exceed the levels being discharged from the remined area before the coal remining operation begins. No discharge from, or affected by, the remining operation shall exceed State water quality standards established under section 303 of this Act.

"(3) Definitions.—For purposes of this subsection—

"(A) Coal remining operation.—The term 'coal remining operation' means a coal mining operation which begins after the date of the enactment of this subsection at a site on which coal mining was conducted before the effective date of the Surface Mining Control and Reclamation Act of 1977.

"(B) Remined area.—The term 'remined area' means only that area of any coal remining operation on which coal mining was conducted before the effective date of the Surface Mining Control and Reclamation Act of 1977.

"(C) Pre-existing discharge.—The term 'pre-existing discharge' means any discharge at the time of permit application under this subsection.

"(4) Applicability of strip mining laws.—Nothing in this subsection shall affect the application of the Surface Mining Control and Reclamation Act of 1977 to any coal remining operation, including the application of such Act to suspended solids.".

SEC. 308. INDIVIDUAL CONTROL STRATEGIES FOR TOXIC POLLUTANTS.

(a) In General.—Section 304 is amended by adding at the end thereof the following new subsection:

"(l) Individual Control Strategies for Toxic Pollutants.—

"(1) State list of navigable waters and development of strategies.—Not later than 2 years after the date of the enactment of this subsection, each State shall submit to the Administrator for review, approval, and implementation under this subsection—

"(A) a list of those waters within the State which after the application of effluent limitations required under section 301(b)(2) of this Act cannot reasonably be anticipated to attain or maintain (i) water quality standards for such waters reviewed, revised, or adopted in accordance with section 303(c)(2)(B) of this Act, due to toxic pollutants, or (ii) that water quality which shall assure protection of public health, public water supplies, agricultural and industrial uses, and the protection and propagation of a balanced population of shellfish, fish and wildlife, and allow recreational activities in and on the water;

"(B) a list of all navigable waters in such State for which the State does not expect the applicable standard under section 303 of this Act will be achieved after the requirements of sections 301(b), 306, and 307(b) are met, due entirely or substantially to discharges from point sources of any toxic pollutants listed pursuant to section 307(a);

"(C) for each segment of the navigable waters included on such lists, a determination of the specific point sources discharging any such toxic pollutant which is believed to be preventing or impairing such water quality and the amount of each such toxic pollutant discharged by each such source; and

"(D) for each such segment, an individual control strategy which the State determines will produce a reduction in the discharge of toxic pollutants from point sources identified by the State under this paragraph through the establishment of effluent limitations under section 402 of this Act and water quality standards under section 303(c)(2)(B) of this Act, which reduction is sufficient, in combination with existing controls on point and nonpoint sources of pollution, to achieve the applicable water quality standard as soon as possible, but not later than 3 years after the date of the establishment of such strategy.

"(2) Approval or disapproval.—Not later than 120 days after the last day of the 2-year period referred to in paragraph (1), the Administrator shall approve or disapprove the control strategies submitted under paragraph (1) by any State.

"(3) Administrator's action.—If a State fails to submit control strategies in accordance with paragraph (1) or the Administrator does not approve the control strategies submitted by such State in accordance with paragraph (1), then, not later than 1 year after the last day of the period referred to in paragraph (2), the Administrator, in cooperation with such State and after notice and opportunity for public comment, shall implement the requirements of paragraph (1) in such State. In the implementation of such requirements, the Administrator shall, at a minimum, consider for listing under this subsection any navigable waters for which any person submits a petition to the Administrator for listing not later than 120 days after such last day."

(b) Judicial Review.—Section 509(b)(1) is amended—

(1) by striking out "and (F)" and inserting in lieu thereof "(F)"; and

(2) by inserting after "any permit under section 402," the following: "and (G) in promulgating any individual control strategy under section 304(l),".

(c) Guidance to States; Information on Water Quality Criteria for Toxics.—Section 304(a) is amended by adding at the end the following new paragraphs:

"(7) Guidance to states.—The Administrator, after consultation with appropriate State agencies and on the basis of criteria and information published under paragraphs (1) and (2) of this subsection, shall develop and publish, within 9 months after the date of the enactment of the Water Quality Act of 1987, guidance to the States on performing the identification required by section 304(l)(1) of this Act.

"(8) Information on water quality criteria.—The Administrator, after consultation with appropriate State agencies and within 2 years after the date of the enactment of the Water Quality Act of 1987, shall develop and publish information on methods for establishing and measuring water quality criteria for toxic pollutants on other bases than pollutant-by-pollutant criteria, including biological monitoring and assessment methods.".

(d) Water Quality Criteria for Toxic Pollutants.—Section 303(c)(2) is amended by inserting "(A)" after "(2)" and by adding the following new subparagraph:

"(B) Whenever a State reviews water quality standards pursuant to paragraph (1) of this subsection, or revises or adopts new standards pursuant to this paragraph, such State shall adopt criteria for all toxic pollutants listed pursuant to section 307(a)(1) of this Act for which criteria have been published under section 304(a), the discharge or presence of which in the affected waters could reasonably be expected to interfere with those designated uses adopted by the State, as necessary to support such designated uses. Such criteria shall be specific numerical criteria for such toxic pollutants. Where such numerical criteria are not available, whenever a State reviews water quality standards pursuant to paragraph (1), or revises or adopts new standards pursuant to this paragraph, such State shall adopt criteria based on biological monitoring or assessment methods consistent with information published pursuant to section 304(a)(8). Nothing in this section shall be construed to limit or delay the use of effluent limitations or other permit conditions based on or involving biological monitoring or assessment methods or previously adopted numerical criteria.".

(e) Modifications of Effluent Limitations.—

(1) In general.—Section 302(b) is amended to read as follows:

"(b) Modifications of Effluent Limitations.—

"(1) Notice and hearing.—Prior to establishment of any effluent limitation pursuant to subsection (a) of this section, the Administrator shall publish such proposed limitation and within 90 days of such publication hold a public hearing.

"(2) Permits.—

"(A) No reasonable relationship.—The Administrator, with the concurrence of the State, may issue a permit which modifies the effluent limitations required by subsection (a) of this section for pollutants other than toxic pollutants if the applicant demonstrates at such hearing that (whether or not technology or other alternative control strategies are available) there is no reasonable relationship between the economic and social costs and the benefits to be obtained (including attainment of the objective of this Act) from achieving such limitation.

"(B) Reasonable progress.—The Administrator, with the concurrence of the State, may issue a permit which modifies the effluent limitations required by subsection (a) of this section for toxic pollutants for a single period not to exceed 5 years if the applicant demonstrates to the satisfaction of the Administrator that such modified requirements (i) will represent the maximum degree of control within the economic capability of the owner and operator of the source, and (ii) will result in reasonable further progress beyond the requirements of section 301(b)(2) toward the requirements of subsection (a) of this section.".

(2) Conforming amendments.—Section 302(a) is amended—

(A) by inserting "or as identified under section 304(l)" after "in the judgment of the Administrator"; and

(B) by inserting "public health," after "protection of".

(f) SCHEDULE FOR REVIEW OF GUIDELINES.—Section 304 is amended by adding at the end the following new subsection:

"(m) SCHEDULE FOR REVIEW OF GUIDELINES.—

"(1) PUBLICATION.—Within 12 months after the date of the enactment of the Water Quality Act of 1987, and biennially thereafter, the Administrator shall publish in the Federal Register a plan which shall—

"(A) establish a schedule for the annual review and revision of promulgated effluent guidelines, in accordance with subsection (b) of this section;

"(B) identify categories of sources discharging toxic or nonconventional pollutants for which guidelines under subsection (b)(2) of this section and section 306 have not previously been published; and

"(C) establish a schedule for promulgation of effluent guidelines for categories identified in subparagraph (B), under which promulgation of such guidelines shall be no later than 4 years after such date of enactment for categories identified in the first published plan or 3 years after the publication of the plan for categories identified in later published plans.

"(2) PUBLIC REVIEW.—The Administrator shall provide for public review and comment on the plan prior to final publication.".

(g) WATER QUALITY IMPROVEMENT STUDY.—

(1) STUDY.—The Administrator shall study the water quality improvements which have been achieved by application of best available technology economically achievable pursuant to section 301(b)(2) of the Federal Water Pollution Control Act. Such study shall include, but not be limited to, an analysis of the effectiveness of the application of best available technology economically achievable pursuant to such section in attaining applicable water quality standards (including the standard specified in section 302(a) of such Act) and an analysis of the effectiveness of the water quality program under such Act and methods of improving such program, including site specific levels of treatment which will achieve the water quality goals of such Act.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Administrator shall submit a report on the results of the study conducted under subsection (a) together with recommendations for improving the water quality program and its effectiveness to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate.

SEC. 309. PRETREATMENT STANDARDS.

(a) EXTENSION OF COMPLIANCE DATE BY POTW.—Section 307 is amended by adding at the end the following:

"(e) COMPLIANCE DATE EXTENSION FOR INNOVATIVE PRETREATMENT SYSTEMS.—In the case of any existing facility that proposes to comply with the pretreatment standards of subsection (b) of this section by applying an innovative system that meets the requirements of section 301(k) of this Act, the owner or operator of the publicly owned treatment works receiving the treated effluent from such facility may extend the date for compliance with the applicable pretreatment standard established under this section for a period not to exceed 2 years—

"(1) if the Administrator determines that the innovative system has the potential for industrywide application, and

"(2) if the Administrator (or the State in consultation with the Administrator, in any case in which the State has a pretreatment program approved by the Administrator)—

"(A) determines that the proposed extension will not cause the publicly owned treatment works to be in violation of its permit under section 402 or of section 405 or to contribute to such a violation, and

"(B) concurs with the proposed extension.".

(b) INCREASE IN EPA EMPLOYEES.—The Administrator shall take such actions as may be necessary to increase the number of employees of the Environmental Protection Agency in order to effectively implement pretreatment requirements under section 307 of the Federal Water Pollution Control Act.

SEC. 310. INSPECTION AND ENTRY.

(a) UNAUTHORIZED DISCLOSURE.—

(1) IN GENERAL.—Section 308(b) is amended by striking out all that follows "Code" and inserting in lieu thereof a period and the following: "Any authorized representative of the Administrator (including an authorized contractor acting as a representative of the Administrator) who knowingly or willfully publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law any information which is required to be considered confidential under this subsection shall be fined not more than $1,000 or imprisoned not more than 1 year, or both. Nothing in this subsection shall prohibit the Administrator or an authorized representative of the Administrator (including any authorized contractor acting as a representative of the Administrator) from disclosing records, reports, or information to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act.".

(2) CONFORMING AMENDMENT.—Section 308(a)(B) is amended by inserting "(including an authorized contractor acting as a representative of the Administrator)" after "or his authorized representative".

(b) ACCESS BY CONGRESS.—Section 308 is amended by adding at the end the following new subsection:

"(d) ACCESS BY CONGRESS.—Notwithstanding any limitation contained in this section or any other provision of law, all information reported to or otherwise obtained by the Administrator (or any representative of the Administrator) under this Act shall be made available, upon written request of any duly authorized committee of Congress, to such committee.".

SEC. 311. MARINE SANITATION DEVICES.

(a) STATE REGULATION OF HOUSEBOATS.—Section 312(f)(1) is amended by striking out "After" and inserting in lieu thereof "(A) Except as provided in subparagraph (B), after" and by adding at the end thereof the following:

"(B) A State may adopt and enforce a statute or regulation with respect to the design, manufacture, or installation or use of any marine sanitation device on a houseboat, if such statute or regulation is more stringent than the standards and regulations promulgated under this section. For purposes of this paragraph, the term 'houseboat' means a vessel which, for a period of time determined by the State in which the vessel is located, is used primarily as a residence and is not used primarily as a means of transportation.".

(b) State Enforcement.—Section 312(k) is amended by adding at the end the following: "The provisions of this section may also be enforced by a State.".

SEC. 312. CRIMINAL PENALTIES.

Section 309(c) is amended to read as follows:

"(c) Criminal Penalties.—

"(1) Negligent violations.—Any person who—

"(A) negligently violates section 301, 302, 306, 307, 308, 318, or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator or by a State, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act or in a permit issued under section 404 of this Act by the Secretary of the Army or by a State; or

"(B) negligently introduces into a sewer system or into a publicly owned treatment works any pollutant or hazardous substance which such person knew or reasonably should have known could cause personal injury or property damage or, other than in compliance with all applicable Federal, State, or local requirements or permits, which causes such treatment works to violate any effluent limitation or condition in any permit issued to the treatment works under section 402 of this Act by the Administrator or a State;

shall be punished by a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment of not more than 2 years, or by both.

"(2) Knowing violations.—Any person who—

"(A) knowingly violates section 301, 302, 306, 307, 308, 318, or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator or by a State, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act or in a permit issued under section 404 of this Act by the Secretary of the Army or by a State; or

"(B) knowingly introduces into a sewer system or into a publicly owned treatment works any pollutant or hazardous substance which such person knew or reasonably should have known could cause personal injury or property damage or, other than in compliance with all applicable Federal, State, or local requirements or permits, which causes such treatment works to violate any effluent limitation or condition in a permit issued to the treatment works under section 402 of this Act by the Administrator or a State;

shall be punished by a fine of not less than $5,000 nor more than $50,000 per day of violation, or by imprisonment for not more than 3 years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $100,000 per day of violation, or by imprisonment of not more than 6 years, or by both.

"(3) Knowing endangerment.—

"(A) General rule.—Any person who knowingly violates section 301, 302, 303, 306, 307, 308, 318, or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator or by a State, or in a permit issued under section 404 of this Act by the Secretary of the Army or by a State, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than $250,000 or imprisonment of not more than 15 years, or both. A person which is an organization shall, upon conviction of violating this subparagraph, be subject to a fine of not more than $1,000,000. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both fine and imprisonment.

"(B) Additional provisions.—For the purpose of subparagraph (A) of this paragraph—

"(i) in determining whether a defendant who is an individual knew that his conduct placed another person in imminent danger of death or serious bodily injury—

"(I) the person is responsible only for actual awareness or actual belief that he possessed; and

"(II) knowledge possessed by a person other than the defendant but not by the defendant himself may not be attributed to the defendant;

except that in proving the defendant's possession of actual knowledge, circumstantial evidence may be used, including evidence that the defendant took affirmative steps to shield himself from relevant information;

"(ii) it is an affirmative defense to prosecution that the conduct charged was consented to by the person endangered and that the danger and conduct charged were reasonably foreseeable hazards of—

"(I) an occupation, a business, or a profession; or

"(II) medical treatment or medical or scientific experimentation conducted by professionally approved methods and such other person had been made aware of the risks involved prior to giving consent;

and such defense may be established under this subparagraph by a preponderance of the evidence;

"(iii) the term 'organization' means a legal entity, other than a government, established or organized for any purpose, and such term includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, trust, society, union, or any other association of persons; and

"(iv) the term 'serious bodily injury' means bodily injury which involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

"(4) False statements.—Any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under this Act, shall upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 2 years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or by both.

"(5) TREATMENT OF SINGLE OPERATIONAL UPSET.—For purposes of this subsection, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

"(6) RESPONSIBLE CORPORATE OFFICER AS 'PERSON'.—For the purpose of this subsection, the term 'person' means, in addition to the definition contained in section 502(5) of this Act, any responsible corporate officer.

"(7) HAZARDOUS SUBSTANCE DEFINED.—For the purpose of this subsection, the term 'hazardous substance' means (A) any substance designated pursuant to section 311(b)(2)(A) of this Act, (B) any element, compound, mixture, solution, or substance designated pursuant to section 102 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, (C) any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Act of Congress) (D) any toxic pollutant listed under section 307(a) of this Act, and (E) any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 7 of the Toxic Substances Control Act.".

SEC. 313. CIVIL PENALTIES.

(a) VIOLATIONS OF PRETREATMENT REQUIREMENTS.—

(1) GENERAL RULE.—Section 309(d) is amended by inserting ", or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act," after "section 404 of this Act by a State,".

(2) SAVINGS PROVISION.—No State shall be required before July 1, 1988, to modify a permit program approved or submitted under section 402 of the Federal Water Pollution Control Act as a result of the amendment made by paragraph (1).

(b) INCREASED PENALTY.—

(1) GENERAL RULE.—Section 309(d) is amended by striking out "$10,000 per day of such violation" and inserting in lieu thereof "$25,000 per day for each violation".

(2) INCREASED PENALTIES NOT REQUIRED UNDER STATE PROGRAMS.—The Federal Water Pollution Control Act shall not be construed as requiring a State to have a civil penalty for violations described in section 309(d) of such Act which has the same monetary amount as the civil penalty established by such section, as amended by paragraph (1). Nothing in this paragraph shall affect the Administrator's authority to establish or adjust by regulation a minimum acceptable State civil penalty.

(c) FACTORS TO CONSIDER IN DETERMINING PENALTY AMOUNT.—Section 309(d) is amended by adding at the end thereof the following: "In determining the amount of a civil penalty the court shall consider the seriousness of the violation or violations, the economic benefit (if any) resulting from the violation, any history of such violations, any good-faith efforts to comply with the applicable requirements, the economic impact of the penalty on the violator, and such other matters as justice may require. For purposes of this subsection, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.".

(d) VIOLATIONS OF SECTION 404 PERMITS.—Section 404(s) is amended—

(1) by striking out paragraph (4);

(2) by redesignating paragraph (5) as paragraph (4); and

(3) in paragraph (4), as so redesignated—

(A) by striking out "$10,000 per day of such violation" and inserting in lieu thereof "$25,000 per day for each violation";

(B) by adding at the end thereof the following: "In determining the amount of a civil penalty the court shall consider the seriousness of the violation or violations, the economic benefit (if any) resulting from the violation, any history of such violations, any good-faith efforts to comply with the applicable requirements, the economic impact of the penalty on the violator, and such other matters as justice may require.".

SEC. 314. ADMINISTRATIVE PENALTIES.

(a) GENERAL RULE.—Section 309 is amended by adding at the end thereof the following:

"(g) ADMINISTRATIVE PENALTIES.—

"(1) VIOLATIONS.—Whenever on the basis of any information available—

"(A) the Administrator finds that any person has violated section 301, 302, 306, 307, 308, 318, or 405 of this Act, or has violated any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator or by a State, or in a permit issued under section 404 by a State, or

"(B) the Secretary of the Army (hereinafter in this subsection referred to as the 'Secretary') finds that any person has violated any permit condition or limitation in a permit issued under section 404 of this Act by the Secretary,

the Administrator or Secretary, as the case may be, may, after consultation with the State in which the violation occurs, assess a class I civil penalty or a class II civil penalty under this subsection.

"(2) CLASSES OF PENALTIES.—

"(A) CLASS I.—The amount of a class I civil penalty under paragraph (1) may not exceed $10,000 per violation, except that the maximum amount of any class I civil penalty under this subparagraph shall not exceed $25,000. Before issuing an order assessing a civil penalty under this subparagraph, the Administrator or the Secretary, as the case may be, shall give to the person to be assessed such penalty written notice of the Administrator's or Secretary's proposal to issue such order and the opportunity to request, within 30 days of the date the notice is received by such person, a hearing on the proposed order. Such hearing shall not be subject to section 554 or 556 of title 5, United States Code, but shall provide a reasonable opportunity to be heard and to present evidence.

"(B) CLASS II.—The amount of a class II civil penalty under paragraph (1) may not exceed $10,000 per day for each day during which the violation continues; except that the maximum amount of any class II civil penalty under this subparagraph shall not exceed $125,000. Except as otherwise provided in this subsection, a class II civil penalty shall be assessed and collected in the same manner, and subject to the same provisions, as in the case of civil penalties assessed and collected after notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code. The Administrator and the Secretary may issue rules for discovery procedures for hearings under this subparagraph.

"(3) Determining amount.—In determining the amount of any penalty assessed under this subsection, the Administrator or the Secretary, as the case may be, shall take into account the nature, circumstances, extent and gravity of the violation, or violations, and, with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings (if any) resulting from the violation, and such other matters as justice may require. For purposes of this subsection, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

"(4) Rights of interested persons.—

"(A) Public notice.—Before issuing an order assessing a civil penalty under this subsection the Administrator or Secretary, as the case may be, shall provide public notice of and reasonable opportunity to comment on the proposed issuance of such order.

"(B) Presentation of evidence.—Any person who comments on a proposed assessment of a penalty under this subsection shall be given notice of any hearing held under this subsection and of the order assessing such penalty. In any hearing held under this subsection, such person shall have a reasonable opportunity to be heard and to present evidence.

"(C) Rights of interested persons to a hearing.—If no hearing is held under paragraph (2) before issuance of an order assessing a penalty under this subsection, any person who commented on the proposed assessment may petition, within 30 days after the issuance of such order, the Administrator or Secretary, as the case may be, to set aside such order and to provide a hearing on the penalty. If the evidence presented by the petitioner in support of the petition is material and was not considered in the issuance of the order, the Administrator or Secretary shall immediately set aside such order and provide a hearing in accordance with paragraph (2)(A) in the case of a class I civil penalty and paragraph (2)(B) in the case of a class II civil penalty. If the Administrator or Secretary denies a hearing under this subparagraph, the Administrator or Secretary shall provide to the petitioner, and publish in the Federal Register, notice of and the reasons for such denial.

"(5) Finality of order.—An order issued under this subsection shall become final 30 days after its issuance unless a petition for judicial review is filed under paragraph (8) or a hearing is requested under paragraph (4)(C). If such a hearing is denied, such order shall become final 30 days after such denial.

"(6) Effect of order.—

"(A) Limitation on actions under other sections.—Action taken by the Administrator or the Secretary, as the case may be, under this subsection shall not affect or limit the Administrator's or Secretary's authority to enforce any provision of this Act; except that any violation—

"(i) with respect to which the Administrator or the Secretary has commenced and is diligently prosecuting an action under this subsection,

"(ii) with respect to which a State has commenced and is diligently prosecuting an action under a State law comparable to this subsection, or

"(iii) for which the Administrator, the Secretary, or the State has issued a final order not subject to further judicial review and the violator has paid a penalty assessed under this subsection, or such comparable State law, as the case may be,

shall not be the subject of a civil penalty action under subsection (d) of this section or section 311(b) or section 505 of this Act.

"(B) Applicability of limitation with respect to citizen suits.—The limitations contained in subparagraph (A) on civil penalty actions under section 505 of this Act shall not apply with respect to any violation for which—

"(i) a civil action under section 505(a)(1) of this Act has been filed prior to commencement of an action under this subsection, or

"(ii) notice of an alleged violation of section 505(a)(1) of this Act has been given in accordance with section 505(b)(1)(A) prior to commencement of an action under this subsection and an action under section 505(a)(1) with respect to such alleged violation is filed before the 120th day after the date on which such notice is given.

"(7) Effect of action on compliance.—No action by the Administrator or the Secretary under this subsection shall affect any person's obligation to comply with any section of this Act or with the terms and conditions of any permit issued pursuant to section 402 or 404 of this Act.

"(8) Judicial review.—Any person against whom a civil penalty is assessed under this subsection or who commented on the proposed assessment of such penalty in accordance with paragraph (4) may obtain review of such assessment—

"(A) in the case of assessment of a class I civil penalty, in the United States District Court for the District of Columbia or in the district in which the violation is alleged to have occurred, or

"(B) in the case of assessment of a class II civil penalty, in United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business,

by filing a notice of appeal in such court within the 30-day period beginning on the date the civil penalty order is issued and by simultaneously sending a copy of such notice by certified mail to the Administrator or the Secretary, as the case may be, and the Attorney General. The Administrator or the Secretary shall promptly file in such court a certified copy of the record on which the order was issued. Such court shall not set aside or remand such order unless there is not substantial evidence in the record, taken as a whole, to support the finding of a violation or unless the Administrator's or Secretary's assessment of the penalty constitutes an abuse of discretion and shall not impose additional civil penalties for the same violation unless the Administrator's or Secretary's assessment of the penalty constitutes an abuse of discretion.

"(9) Collection.—If any person fails to pay an assessment of a civil penalty—

"(A) after the order making the assessment has become final, or

"(B) after a court in an action brought under paragraph (8) has entered a final judgment in favor of the Administrator or the Secretary, as the case may be,

the Administrator or the Secretary shall request the Attorney General to bring a civil action in an appropriate district court to recover the amount assessed (plus interest at currently prevailing rates from the date of the final order or the date of the final judgment, as the case may be). In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review. Any person who fails to pay on a timely basis the amount of an assessment of a civil penalty as described in the first sentence of this paragraph shall be required to pay, in addition to such amount and interest, attorneys fees and costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to 20 percent of the aggregate amount of such person's penalties and nonpayment penalties which are unpaid as of the beginning of such quarter.

"(10) Subpoenas.—The Administrator or Secretary, as the case may be, may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, or documents in connection with hearings under this subsection. In case of contumacy or refusal to obey a subpoena issued pursuant to this paragraph and served upon any person, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the administrative law judge or to appear and produce documents before the administrative law judge, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(11) Protection of existing procedures.—Nothing in this subsection shall change the procedures existing on the day before the date of the enactment of the Water Quality Act of 1987 under other subsections of this section for issuance and enforcement of orders by the Administrator.".

(b) Reports on Enforcement Mechanisms.—The Secretary of the Army and the Administrator shall each prepare and submit a report to the Congress, not later than December 1, 1988, which shall examine and analyze various enforcement mechanisms for use by the Secretary or Administrator, as the case may be, including an administrative civil penalty mechanism. Each of such reports shall also include an examination, prepared in consultation with the Comptroller General, of the efficacy of the Secretary's or the Administrator's existing enforcement authorities and shall include recommendations for improvements in their operation.

(c) Conforming Amendment.—Section 505(a) is amended by inserting "and section 309(g)(6)" after "Except as provided in subsection (b) of this section".

SEC. 315. CLEAN LAKES.

(a) Establishment and Scope of Program.—Section 314(a) is amended to read as follows:

"(a) Establishment and Scope of Program.—

"(1) State program requirements.—Each State on a biennial basis shall prepare and submit to the Administrator for his approval—

"(A) an identification and classification according to eutrophic condition of all publicly owned lakes in such State;

"(B) a description of procedures, processes, and methods (including land use requirements), to control sources of pollution of such lakes;

"(C) a description of methods and procedures, in conjunction with appropriate Federal agencies, to restore the quality of such lakes;

"(D) methods and procedures to mitigate the harmful effects of high acidity, including innovative methods of neutralizing and restoring buffering capacity of lakes and methods of removing from lakes toxic metals and other toxic substances mobilized by high acidity;

"(E) a list and description of those publicly owned lakes in such State for which uses are known to be impaired, including those lakes which are known not to meet applicable water quality standards or which require implementation of control programs to maintain compliance with applicable standards and those lakes in which water quality has deteriorated as a result of high acidity that may reasonably be due to acid deposition; and

"(F) an assessment of the status and trends of water quality in lakes in such State, including but not limited to, the nature and extent of pollution loading from point and nonpoint sources and the extent to which the use of lakes is impaired as a result of such pollution, particularly with respect to toxic pollution.

"(2) Submission as part of 305(b)(1) report.—The information required under paragraph (1) shall be included in the report required under section 305(b)(1) of this Act, beginning with the report required under such section by April 1, 1988.

"(3) Report of administrator.—Not later than 180 days after receipt from the States of the biennial information required under paragraph (1), the Administrator shall submit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the status of water quality in lakes in the United States, including the effectiveness of the methods and procedures described in paragraph (1)(D).

"(4) Eligibility requirement.—Beginning after April 1, 1988, a State must have submitted the information required under paragraph (1) in order to receive grant assistance under this section.".

(b) Demonstration Program.—Section 314 is amended by adding at the end thereof the following new subsections:

"(d) Demonstration Program.—

"(1) General requirements.—The Administrator is authorized and directed to establish and conduct at locations throughout the Nation a lake water quality demonstration program. The program shall, at a minimum—

"(A) develop cost effective technologies for the control of pollutants to preserve or enhance lake water quality while optimizing multiple lakes uses;

"(B) control nonpoint sources of pollution which are contributing to the degradation of water quality in lakes;

"(C) evaluate the feasibility of implementing regional consolidated pollution control strategies;

"(D) demonstrate environmentally preferred techniques for the removal and disposal of contaminated lake sediments;

"(E) develop improved methods for the removal of silt, stumps, aquatic growth, and other obstructions which impair the quality of lakes;

"(F) construct and evaluate silt traps and other devices or equipment to prevent or abate the deposit of sediment in lakes; and

"(G) demonstrate the costs and benefits of utilizing dredged material from lakes in the reclamation of despoiled land.

"(2) Geographical requirements.—Demonstration projects authorized by this subsection shall be undertaken to reflect a variety of geographical and environmental conditions. As a priority, the Administrator shall undertake demonstration projects at Lake Houston, Texas; Beaver Lake, Arkansas; Greenwood Lake and Belcher Creek, New Jersey; Deal Lake, New Jersey; Alcyon Lake, New Jersey; Gorton's Pond, Rhode Island; Lake Washington, Rhode Island; Lake Bomoseen, Vermont; Sauk Lake, Minnesota; and Lake Worth, Texas.

"(3) Reports.—The Administrator shall report annually to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate on work undertaken pursuant to this subsection. Upon completion of the program authorized by this subsection, the Administrator shall submit to such committees a final report on the results of such program, along with recommendations for further measures to improve the water quality of the Nation's lakes.

"(4) Authorization of appropriations.—

"(A) In general.—There is authorized to be appropriated to carry out this subsection not to exceed $40,000,000 for fiscal years beginning after September 30, 1986, to remain available until expended.

"(B) Special authorizations.—

"(i) Amount.—There is authorized to be appropriated to carry out subsection (b) with respect to subsection (a)(1)(D) not to exceed $15,000,000 for fiscal years beginning after September 30, 1986, to remain available until expended.

"(ii) Distribution of funds.—The Administrator shall provide for an equitable distribution of sums appropriated pursuant to this subparagraph among States carrying out approved methods and procedures. Such distribution shall be based on the relative needs of each such State for the mitigation of the harmful effects on lakes and other surface waters of high acidity that may reasonably be due to acid deposition or acid mine drainage.

"(iii) Grants as additional assistance.—The amount of any grant to a State under this subparagraph shall be in addition to, and not in lieu of, any other Federal financial assistance.".

(c) Lake Restoration Guidance Manual.—Section 304(j) is amended to read as follows:

"(j) Lake Restoration Guidance Manual.—The Administrator shall, within 1 year after the date of the enactment of the Water Quality Act of 1987 and biennially thereafter, publish and disseminate a lake restoration guidance manual describing methods, procedures, and processes to guide State and local efforts to improve, restore, and enhance water quality in the Nation's publicly owned lakes.".

(d) Conforming Amendments.—Section 314 is further amended—

(1) in subsection (b) by striking out "this section" the first place it appears and inserting in lieu thereof "subsection (a) of this section";

(2) in subsection (c)(1) by striking out "this section" the first place it appears and inserting in lieu thereof "subsection (b) of this section" and by striking out "this section" the second place it appears and inserting in lieu thereof "subsection (a) of this section"; and

(3) in subsection (c)(2) by striking out "this section" the first place it appears and inserting in lieu thereof "subsection (b) of this section" and by striking out "this section" the second place it appears and inserting in lieu thereof "subsection (a) of this section".

SEC. 316. MANAGEMENT OF NONPOINT SOURCES OF POLLUTION.

(a) In General.—Title III is amended by adding at the end the following new section:

"SEC. 319. NONPOINT SOURCE MANAGEMENT PROGRAMS.

"(a) State Assessment Reports.—

"(1) Contents.—The Governor of each State shall, after notice and opportunity for public comment, prepare and submit to the Administrator for approval, a report which—

"(A) identifies those navigable waters within the State which, without additional action to control nonpoint sources of pollution, cannot reasonably be expected to attain or maintain applicable water quality standards or the goals and requirements of this Act;

"(B) identifies those categories and subcategories of nonpoint sources or, where appropriate, particular nonpoint sources which add significant pollution to each portion of the navigable waters identified under subparagraph (A) in amounts which contribute to such portion not meeting such water quality standards or such goals and requirements;

"(C) describes the process, including intergovernmental coordination and public participation, for identifying best management practices and measures to control each category and subcategory of nonpoint sources and, where appropriate, particular nonpoint sources identified under subparagraph (B) and to reduce, to the maximum extent practicable, the level of pollution resulting from such category, subcategory, or source; and

"(D) identifies and describes State and local programs for controlling pollution added from nonpoint sources to, and improving the quality of, each such portion of the navigable waters, including but not limited to those programs which are receiving Federal assistance under subsections (h) and (i).

"(2) Information used in preparation.—In developing the report required by this section, the State (A) may rely upon information developed pursuant to sections 208, 303(e), 304(f), 305(b), and 314, and other information as appropriate, and (B) may utilize appropriate elements of the waste treatment management plans developed pursuant to sections 208(b) and 303, to the extent such elements are consistent with and fulfill the requirements of this section.

"(b) State Management Programs.—

"(1) In general.—The Governor of each State, for that State or in combination with adjacent States, shall, after notice and opportunity for public comment, prepare and submit to the Administrator for approval a management program which such State proposes to implement in the first four fiscal years beginning after the date of submission of such management program for controlling pollution added from nonpoint sources to the navigable waters within the State and improving the quality of such waters.

"(2) Specific contents.—Each management program proposed for implementation under this subsection shall include each of the following:

"(A) An identification of the best management practices and measures which will be undertaken to reduce pollutant loadings resulting from each category, subcategory, or particular nonpoint source designated under paragraph (1)(B), taking into account the impact of the practice on ground water quality.

"(B) An identification of programs (including, as appropriate, nonregulatory or regulatory programs for enforcement, technical assistance, financial assistance, education, training, technology transfer, and demonstration projects) to achieve implementation of the best management practices by the categories, subcategories, and particular nonpoint sources designated under subparagraph (A).

"(C) A schedule containing annual milestones for (i) utilization of the program implementation methods identified in subparagraph (B), and (ii) implementation of the best management practices identified in subparagraph (A) by the categories, subcategories, or particular nonpoint sources designated under paragraph (1)(B). Such schedule shall provide for utilization of the best management practices at the earliest practicable date.

"(D) A certification of the attorney general of the State or States (or the chief attorney of any State water pollution control agency which has independent legal counsel) that the laws of the State or States, as the case may be, provide adequate authority to implement such management program or, if there is not such adequate authority, a list of such additional authorities as will be necessary to implement such management program. A schedule and commitment by the State or States to seek such additional authorities as expeditiously as practicable.

"(E) Sources of Federal and other assistance and funding (other than assistance provided under subsections (h) and (i)) which will be available in each of such fiscal years for supporting implementation of such practices and measures and the purposes for which such assistance will be used in each of such fiscal years.

"(F) An identification of Federal financial assistance programs and Federal development projects for which the State will review individual assistance applications or development projects for their effect on water quality pursuant to the procedures set forth in Executive Order 12372 as in effect on September 17, 1983, to determine whether such assistance applications or development projects would be consistent with the program prepared under this subsection; for the purposes of this subparagraph, identification shall not be limited to the assistance programs or development projects subject to Executive Order 12372 but may include any programs listed in the most recent Catalog of Federal Domestic Assistance which may have an effect on the purposes and objectives of the State's nonpoint source pollution management program.

"(3) Utilization of local and private experts.—In developing and implementing a management program under this subsection, a State shall, to the maximum extent practicable, involve local public and private agencies and organizations which have expertise in control of nonpoint sources of pollution.

"(4) Development on watershed basis.—A State shall, to the maximum extent practicable, develop and implement a management program under this subsection on a watershed-by-watershed basis within such State.

"(c) Administrative Provisions.—

"(1) Cooperation requirement.—Any report required by subsection (a) and any management program and report required by subsection (b) shall be developed in cooperation with local, substate regional, and interstate entities which are actively planning for the implementation of nonpoint source pollution controls and have either been certified by the Administrator in accordance with section 208, have worked jointly with the State on water quality management planning under section 205(j), or have been designated by the State legislative body or Governor as water quality management planning agencies for their geographic areas.

"(2) Time period for submission of reports and management programs.—Each report and management program shall be submitted to the Administrator during the 18-month period beginning on the date of the enactment of this section.

"(d) Approval or Disapproval of Reports and Management Programs.—

"(1) Deadline.—Subject to paragraph (2), not later than 180 days after the date of submission to the Administrator of any report or management program under this section (other than subsections (h), (i), and (k)), the Administrator shall either approve or disapprove such report or management program, as the case may be. The Administrator may approve a portion of a management program under this subsection. If the Administrator does not disapprove a report, management program, or portion of a management program in such 180-day period, such report, management program, or portion shall be deemed approved for purposes of this section.

"(2) Procedure for disapproval.—If, after notice and opportunity for public comment and consultation with appropriate Federal and State agencies and other interested persons, the Administrator determines that—

"(A) the proposed management program or any portion thereof does not meet the requirements of subsection (b)(2) of this section or is not likely to satisfy, in whole or in part, the goals and requirements of this Act;

"(B) adequate authority does not exist, or adequate resources are not available, to implement such program or portion;

"(C) the schedule for implementing such program or portion is not sufficiently expeditious; or

"(D) the practices and measures proposed in such program or portion are not adequate to reduce the level of pollution in navigable waters in the State resulting from nonpoint sources and to improve the quality of navigable waters in the State;

the Administrator shall within 6 months of the receipt of the proposed program notify the State of any revisions or modifications necessary to obtain approval. The State shall thereupon have an additional 3 months to submit its revised management program and the Administrator shall approve or disapprove such revised program within three months of receipt.

"(3) Failure of state to submit report.—If a Governor of a State does not submit the report required by subsection (a) within the period specified by subsection (c)(2), the Administrator shall, within 30 months after the date of the enactment of this section, prepare a report for such State which makes the identifications required by paragraphs (1)(A) and (1)(B) of subsection (a). Upon completion of the requirement of the preceding sentence and after notice and opportunity for comment, the Administrator shall report to Congress on his actions pursuant to this section.

"(e) Local Management Programs; Technical Assistance.—If a State fails to submit a management program under subsection (b) or the Administrator does not approve such a management program, a local public agency or organization which has expertise in, and authority to, control water pollution resulting from nonpoint sources in any area of such State which the Administrator determines is of sufficient geographic size may, with approval of such State, request the Administrator to provide, and the Administrator shall provide, technical assistance to such agency or organization in developing for such area a management program which is described in subsection (b) and can be approved pursuant to subsection (d). After development of such management program, such agency or organization shall submit such management program to the Administrator for approval. If the Administrator approves such management program, such agency or organization shall be eligible to receive financial assistance under subsection (h) for implementation of such management program as if such agency or organization were a State for which a report submitted under subsection (a) and a management program submitted under subsection (b) were approved under this section. Such financial assistance shall be subject to the same terms and conditions as assistance provided to a State under subsection (h).

"(f) Technical Assistance for States.—Upon request of a State, the Administrator may provide technical assistance to such State in developing a management program approved under subsection (b) for those portions of the navigable waters requested by such State.

"(g) Interstate Management Conference.—

"(1) Convening of conference; notification; purpose.—If any portion of the navigable waters in any State which is implementing a management program approved under this section is not meeting applicable water quality standards or the goals and requirements of this Act as a result, in whole or in part, of pollution from nonpoint sources in another State, such State may petition the Administrator to convene, and the Administrator shall convene, a management conference of all States which contribute significant pollution resulting from nonpoint sources to such portion. If, on the basis of information available, the Administrator determines that a State is not meeting applicable water quality standards or the goals and requirements of this Act as a result, in whole or in part, of significant pollution from nonpoint sources in another State, the Administrator shall notify such States. The Administrator may convene a management conference under this paragraph not later than 180 days after giving such notification, whether or not the State which is not meeting such standards requests such conference. The purpose of such conference shall be to develop an agreement among such States to reduce the level of pollution in such portion resulting from nonpoint sources and to improve the water quality of such portion. Nothing in such agreement shall supersede or abrogate rights to quantities of water which have been established by interstate water compacts, Supreme Court decrees, or State water laws. This subsection shall not apply to any pollution which is subject to the Colorado River Basin Salinity Control Act. The requirement that the Administrator convene a management conference shall not be subject to the provisions of section 505 of this Act.

"(2) State management program requirement.—To the extent that the States reach agreement through such conference, the management programs of the States which are parties to such agreements and which contribute significant pollution to the navigable waters or portions thereof not meeting applicable water quality standards or goals and requirements of this Act will be revised to reflect such agreement. Such management programs shall be consistent with Federal and State law.

"(h) Grant Program.—

"(1) Grants for implementation of management programs.—Upon application of a State for which a report submitted under subsection (a) and a management program submitted under subsection (b) is approved under this section, the Administrator shall make grants, subject to such terms and conditions as the Administrator considers appropriate, under this subsection to such State for the purpose of assisting the State in implementing such management program. Funds reserved pursuant to section 205(j)(5) of this Act may be used to develop and implement such management program.

"(2) Applications.—An application for a grant under this subsection in any fiscal year shall be in such form and shall contain such other information as the Administrator may require, including an identification and description of the best management practices and measures which the State proposes to assist, encourage, or require in such year with the Federal assistance to be provided under the grant.

"(3) Federal share.—The Federal share of the cost of each management program implemented with Federal assistance under this subsection in any fiscal year shall not exceed 60 percent of the cost incurred by the State in implementing such management program and shall be made on condition that the non-Federal share is provided from non-Federal sources.

"(4) Limitation on grant amounts.—Notwithstanding any other provision of this subsection, not more than 15 percent of the amount appropriated to carry out this subsection may be used to make grants to any one State, including any grants to any local public agency or organization with authority to control pollution from nonpoint sources in any area of such State.

"(5) Priority for effective mechanisms.—For each fiscal year beginning after September 30, 1987, the Administrator may give priority in making grants under this subsection, and shall give consideration in determining the Federal share of any such grant, to States which have implemented or are proposing to implement management programs which will—

"(A) control particularly difficult or serious nonpoint source pollution problems, including, but not limited to, problems resulting from mining activities;

"(B) implement innovative methods or practices for controlling nonpoint sources of pollution, including regulatory programs where the Administrator deems appropriate;

"(C) control interstate nonpoint source pollution problems; or

"(D) carry out ground water quality protection activities which the Administrator determines are part of a comprehensive nonpoint source pollution control program, including research, planning, ground water assessments, demonstration programs, enforcement, technical assistance, education, and training to protect ground water quality from nonpoint sources of pollution.

"(6) Availability for obligation.—The funds granted to each State pursuant to this subsection in a fiscal year shall remain available for obligation by such State for the fiscal year for which appropriated. The amount of any such funds not obligated by the end of such fiscal year shall be available to the Administrator for granting to other States under this subsection in the next fiscal year.

"(7) Limitation on use of funds.—States may use funds from grants made pursuant to this section for financial assistance to persons only to the extent that such assistance is related to the costs of demonstration projects.

"(8) Satisfactory progress.—No grant may be made under this subsection in any fiscal year to a State which in the preceding fiscal year received a grant under this subsection unless the Administrator determines that such State made satisfactory progress in such preceding fiscal year in meeting the schedule specified by such State under subsection (b)(2).

"(9) Maintenance of effort.—No grant may be made to a State under this subsection in any fiscal year unless such State enters into such agreements with the Administrator as the Administrator may require to ensure that such State will maintain its aggregate expenditures from all other sources for programs for controlling pollution added to the navigable waters in such State from nonpoint sources and improving the quality of such waters at or above the average level of such expenditures in its two fiscal years preceding the date of enactment of this subsection.

"(10) Request for information.—The Administrator may request such information, data, and reports as he considers necessary to make the determination of continuing eligibility for grants under this section.

"(11) Reporting and other requirements.—Each State shall report to the Administrator on an annual basis concerning (A) its progress in meeting the schedule of milestones submitted pursuant to subsection (b)(2)(C) of this section, and (B) to the extent that appropriate information is available, reductions in nonpoint source pollutant loading and improvements in water quality for those navigable waters or watersheds within the State which were identified pursuant to subsection (a)(1)(A) of this section resulting from implementation of the management program.

"(12) Limitation on administrative costs.—For purposes of this subsection, administrative costs in the form of salaries, overhead, or indirect costs for services provided and charged against activities and programs carried out with a grant under this subsection shall not exceed in any fiscal year 10 percent of the amount of the grant in such year, except that costs of implementing enforcement and regulatory activities, education, training, technical assistance, demonstration projects, and technology transfer programs shall not be subject to this limitation.

"(i) Grants for Protecting Groundwater Quality.—

"(1) Eligible applicants and activities.—Upon application of a State for which a report submitted under subsection (a) and a plan submitted under subsection (b) is approved under this section, the Administrator shall make grants under this subsection to such State for the purpose of assisting such State in carrying out groundwater quality protection activities which the Administrator determines will advance the State toward implementation of a comprehensive nonpoint source pollution control program. Such activities shall include, but not be limited to, research, planning, groundwater assessments, demonstration programs, enforcement, technical assistance, education and training to protect the quality of groundwater and to prevent contamination of groundwater from nonpoint sources of pollution.

"(2) Applications.—An application for a grant under this subsection shall be in such form and shall contain such information as the Administrator may require.

"(3) Federal share; maximum amount.—The Federal share of the cost of assisting a State in carrying out groundwater protection activities in any fiscal year under this subsection shall be 50 percent of the costs incurred by the State in carrying out such activities, except that the maximum amount of Federal assistance which any State may receive under this subsection in any fiscal year shall not exceed $150,000.

"(4) Report.—The Administrator shall include in each report transmitted under subsection (m) a report on the activities and programs implemented under this subsection during the preceding fiscal year.

"(j) Authorization of Appropriations.—There is authorized to be appropriated to carry out subsections (h) and (i) not to exceed $70,000,000 for fiscal year 1988, $100,000,000 per fiscal year for each of fiscal years 1989 and 1990, and $130,000,000 for fiscal year 1991; except that for each of such fiscal years not to exceed $7,500,000 may be made available to carry out subsection (i). Sums appropriated pursuant to this subsection shall remain available until expended.

"(k) Consistency of Other Programs and Projects With Management Programs.—The Administrator shall transmit to the Office of Management and Budget and the appropriate Federal departments and agencies a list of those assistance programs and development projects identified by each State under subsection (b)(2)(F) for which individual assistance applications and projects will be reviewed pursuant to the procedures set forth in Executive Order 12372 as in effect on September 17, 1983. Beginning not later than sixty days after receiving notification by the Administrator, each Federal department and agency shall modify existing regulations to allow States to review individual development projects and assistance applications under the identified Federal assistance programs and shall accommodate, according to the requirements and definitions of Executive Order 12372, as in effect on September 17, 1983, the concerns of the State regarding the consistency of such applications or projects with the State nonpoint source pollution management program.

"(l) Collection of Information.—The Administrator shall collect and make available, through publications and other appropriate means, information pertaining to management practices and implementation methods, including, but not limited to, (1) information concerning the costs and relative efficiencies of best management practices for reducing nonpoint source pollution; and (2) available data concerning the relationship between water quality and implementation of various management practices to control nonpoint sources of pollution.

"(m) Reports of Administrator.—

"(1) Annual reports.—Not later than January 1, 1988, and each January 1 thereafter, the Administrator shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate, a report for the preceding fiscal year on the activities and programs implemented under this section and the progress made in reducing pollution in the navigable waters resulting from nonpoint sources and improving the quality of such waters.

"(2) Final report.—Not later than January 1, 1990, the Administrator shall transmit to Congress a final report on the activities carried out under this section. Such report, at a minimum, shall—

"(A) describe the management programs being implemented by the States by types and amount of affected navigable waters, categories and subcategories of nonpoint sources, and types of best management practices being implemented;

"(B) describe the experiences of the States in adhering to schedules and implementing best management practices;

"(C) describe the amount and purpose of grants awarded pursuant to subsections (h) and (i) of this section;

"(D) identify, to the extent that information is available, the progress made in reducing pollutant loads and improving water quality in the navigable waters;

"(E) indicate what further actions need to be taken to attain and maintain in those navigable waters (i) applicable water quality standards, and (ii) the goals and requirements of this Act;

"(F) include recommendations of the Administrator concerning future programs (including enforcement programs) for controlling pollution from nonpoint sources; and

"(G) identify the activities and programs of departments, agencies, and instrumentalities of the United States which are inconsistent with the management programs submitted by the States and recommend modifications so that such activities and programs are consistent with and assist the States in implementation of such management programs.

"(n) Set Aside for Administrative Personnel.—Not less than 5 percent of the funds appropriated pursuant to subsection (j) for any fiscal year shall be available to the Administrator to maintain personnel levels at the Environmental Protection Agency at levels which are adequate to carry out this section in such year.".

(b) Policy for Control of Nonpoint Sources of Pollution.—Section 101(a) is amended by striking out "and" at the end of paragraph (5), by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and", and by adding at the end thereof the following:

"(7) it is the national policy that programs for the control of nonpoint sources of pollution be developed and implemented in an expeditious manner so as to enable the goals of this Act to be met through the control of both point and nonpoint sources of pollution.".

(c) Eligibility of Nonpoint Sources.—The last sentence of section 201(g)(1) is amended by—

(1) striking out "sentence," the first place it appears and inserting in lieu thereof "sentences,";

(2) inserting "(A)" after "October 1, 1984, for"; and

(3) inserting before "except that" the following: "and (B) any purpose for which a grant may be made under section 319 (h) and (i) of this Act (including any innovative and alternative approaches for the control of nonpoint sources of pollution),".

(d) Reservation of Funds.—Section 205(j) is amended by adding at the end the following new paragraph:

"(5) Nonpoint source reservation.—In addition to the sums reserved under paragraph (1), the Administrator shall reserve each fiscal year for each State 1 percent of the sums allotted and available for obligation to such State under this section for each fiscal year beginning on or after October 1, 1986, or $100,000, whichever is greater, for the purpose of carrying out section 319 of this Act. Sums so reserved in a State in any fiscal year for which such State does not request the use of such sums, to the extent such sums exceed $100,000, may be used by such State for other purposes under this title.".

(e) Conforming Amendment.—Section 304(k)(1) is amended by inserting "and nonpoint source pollution management programs approved under section 319 of this Act" after "208 of this Act".

SEC. 317. NATIONAL ESTUARY PROGRAM.

(a) Purposes and Policies.—

(1) Findings.—Congress finds and declares that—

(A) the Nation's estuaries are of great importance for fish and wildlife resources and recreation and economic opportunity;

(B) maintaining the health and ecological integrity of these estuaries is in the national interest;

(C) increasing coastal population, development, and other direct and indirect uses of these estuaries threaten their health and ecological integrity;

(D) long-term planning and management will contribute to the continued productivity of these areas, and will maximize their utility to the Nation; and

(E) better coordination among Federal and State programs affecting estuaries will increase the effectiveness and efficiency of the national effort to protect, preserve, and restore these areas.

(2) Purposes.—The purposes of this section are to—

(A) identify nationally significant estuaries that are threatened by pollution, development, or overuse;

(B) promote comprehensive planning for, and conservation and management of, nationally significant estuaries;

(C) encourage the preparation of management plans for estuaries of national significance; and

(D) enhance the coordination of estuarine research.

(b) Management Program.—Title III is amended by adding at the end thereof the following new section:

"SEC. 320. NATIONAL ESTUARY PROGRAM.

"(a) Management Conference.—

"(1) Nomination of estuaries.—The Governor of any State may nominate to the Administrator an estuary lying in whole or in part within the State as an estuary of national significance and request a management conference to develop a comprehensive management plan for the estuary. The nomination shall document the need for the conference, the likelihood of success, and information relating to the factors in paragraph (2).

"(2) Convening of conference.—

"(A) In general.—In any case where the Administrator determines, on his own initiative or upon nomination of a State under paragraph (1), that the attainment or maintenance of that water quality in an estuary which assures protection of public water supplies and the protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife, and allows recreational activities, in and on the water, requires the control of point and nonpoint sources of pollution to supplement existing controls of pollution in more than one State, the Administrator shall select such estuary and convene a management conference.

"(B) Priority consideration.—The Administrator shall give priority consideration under this section to Long Island Sound, New York and Connecticut; Narragansett Bay, Rhode Island; Buzzards Bay, Massachusetts; Puget Sound, Washington; New York-New Jersey Harbor, New York and New Jersey; Delaware Bay, Delaware and New Jersey; Delaware Inland Bays, Delaware; Albemarle Sound, North Carolina; Sarasota Bay, Florida; San Francisco Bay, California; and Galveston Bay, Texas.

"(3) Boundary dispute exception.—In any case in which a boundary between two States passes through an estuary and such boundary is disputed and is the subject of an action in any court, the Administrator shall not convene a management conference with respect to such estuary before a final adjudication has been made of such dispute.

"(b) Purposes of Conference.—The purposes of any management conference convened with respect to an estuary under this subsection shall be to—

"(1) assess trends in water quality, natural resources, and uses of the estuary;

"(2) collect, characterize, and assess data on toxics, nutrients, and natural resources within the estuarine zone to identify the causes of environmental problems;

"(3) develop the relationship between the inplace loads and point and nonpoint loadings of pollutants to the estuarine zone and the potential uses of the zone, water quality, and natural resources;

"(4) develop a comprehensive conservation and management plan that recommends priority corrective actions and compliance schedules addressing point and nonpoint sources of pollution to restore and maintain the chemical, physical, and biological integrity of the estuary, including restoration and maintenance of water quality, a balanced indigenous population of shellfish, fish and wildlife, and recreational activities in the estuary, and assure that the designated uses of the estuary are protected;

"(5) develop plans for the coordinated implementation of the plan by the States as well as Federal and local agencies participating in the conference;

"(6) monitor the effectiveness of actions taken pursuant to the plan; and

"(7) review all Federal financial assistance program and Federal development project in accordance with the requirements of Executive Order 12372, as in effect on September 17, 1983, to determine whether such assistance program or project would be consistent with and further the purposes and objectives of the plan prepared under this section.

For purposes of paragraph (7), such programs and projects shall not be limited to the assistance programs and development projects subject to Executive Order 12372, but may include any programs listed in the most recent Catalog of Federal Domestic Assistance which may have an effect on the purposes and objectives of the plan developed under this section.

"(c) Members of Conference.—The members of a management conference convened under this section shall include, at a minimum, the Administrator and representatives of—

"(1) each State and foreign nation located in whole or in part in the estuarine zone of the estuary for which the conference is convened;

"(2) international, interstate, or regional agencies or entities having jurisdiction over all or a significant part of the estuary;

"(3) each interested Federal agency, as determined appropriate by the Administrator;

"(4) local governments having jurisdiction over any land or water within the estuarine zone, as determined appropriate by the Administrator; and

"(5) affected industries, public and private educational institutions, and the general public, as determined appropriate by the Administrator.

"(d) Utilization of Existing Data.—In developing a conservation and management plan under this section, the management conference shall survey and utilize existing reports, data, and studies relating to the estuary that have been developed by or made available to Federal, interstate, State, and local agencies.

"(e) Period of Conference.—A management conference convened under this section shall be convened for a period not to exceed 5 years. Such conference may be extended by the Administrator, and if terminated after the initial period, may be reconvened by the Administrator at any time thereafter, as may be necessary to meet the requirements of this section.

"(f) Approval and Implementation of Plans.—

"(1) Approval.—Not later than 120 days after the completion of a conservation and management plan and after providing for public review and comment, the Administrator shall approve such plan if the plan meets the requirements of this section and the affected Governor or Governors concur.

"(2) Implementation.—Upon approval of a conservation and management plan under this section, such plan shall be implemented. Funds authorized to be appropriated under titles II and VI and section 319 of this Act may be used in accordance with the applicable requirements of this Act to assist States with the implementation of such plan.

"(g) Grants.—

"(1) Recipients.—The Administrator is authorized to make grants to State, interstate, and regional water pollution control agencies and entities, State coastal zone management agencies, interstate agencies, other public or nonprofit private agencies, institutions, organizations, and individuals.

"(2) Purposes.—Grants under this subsection shall be made to pay for assisting research, surveys, studies, and modeling and other technical work necessary for the development of a conservation and management plan under this section.

"(3) Federal share.—The amount of grants to any person (including a State, interstate, or regional agency or entity) under this subsection for a fiscal year shall not exceed 75 percent of the costs of such research, survey, studies, and work and shall be made on condition that the non-Federal share of such costs are provided from non-Federal sources.

"(h) Grant Reporting.—Any person (including a State, interstate, or regional agency or entity) that receives a grant under subsection (g) shall report to the Administrator not later than 18 months after receipt of such grant and biennially thereafter on the progress being made under this section.

"(i) Authorization of Appropriations.—There are authorized to be appropriated to the Administrator not to exceed $12,000,000 per fiscal year for each of fiscal years 1987, 1988, 1989, 1990, and 1991 for—

"(1) expenses related to the administration of management conferences under this section, not to exceed 10 percent of the amount appropriated under this subsection;

"(2) making grants under subsection (g); and

"(3) monitoring the implementation of a conservation and management plan by the management conference or by the Administrator, in any case in which the conference has been terminated.

The Administrator shall provide up to $5,000,000 per fiscal year of the sums authorized to be appropriated under this subsection to the Administrator of the National Oceanic and Atmospheric Administration to carry out subsection (j).

"(j) Research.—

"(1) Programs.—In order to determine the need to convene a management conference under this section or at the request of such a management conference, the Administrator shall coordinate and implement, through the National Marine Pollution Program Office and the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration, as appropriate, for one or more estuarine zones—

"(A) a long-term program of trend assessment monitoring measuring variations in pollutant concentrations, marine ecology, and other physical or biological environmental parameters which may affect estuarine zones, to provide the Administrator the capacity to determine the potential and actual effects of alternative management strategies and measures;

"(B) a program of ecosystem assessment assisting in the development of (i) baseline studies which determine the state of estuarine zones and the effects of natural and anthropogenic changes, and (ii) predictive models capable of translating information on specific discharges or general pollutant loadings within estuarine zones into a set of probable effects on such zones;

"(C) a comprehensive water quality sampling program for the continuous monitoring of nutrients, chlorine, acid precipitation dissolved oxygen, and potentially toxic pollutants (including organic chemicals and metals) in estuarine zones, after consultation with interested State, local, interstate, or international agencies and review and analysis of all environmental sampling data presently collected from estuarine zones; and

"(D) a program of research to identify the movements of nutrients, sediments and pollutants through estuarine zones and the impact of nutrients, sediments, and pollutants on water quality, the ecosystem, and designated or potential uses of the estuarine zones.

"(2) Reports.—The Administrator, in cooperation with the Administrator of the National Oceanic and Atmospheric Administration, shall submit to the Congress no less often than biennially a comprehensive report on the activities authorized under this subsection including—

"(A) a listing of priority monitoring and research needs;

"(B) an assessment of the state and health of the Nation's estuarine zones, to the extent evaluated under this subsection;

"(C) a discussion of pollution problems and trends in pollutant concentrations with a direct or indirect effect on water quality, the ecosystem, and designated or potential uses of each estuarine zone, to the extent evaluated under this subsection; and

"(D) an evaluation of pollution abatement activities and management measures so far implemented to determine the degree of improvement toward the objectives expressed in subsection (b)(4) of this section.

"(k) Definitions.—For purposes of this section, the terms 'estuary' and 'estuarine zone' have the meanings such terms have in section 104(n)(4) of this Act, except that the term 'estuarine zone' shall also include associated aquatic ecosystems and those portions of tributaries draining into the estuary up to the historic height of migration of anadromous fish or the historic head of tidal influence, whichever is higher.".

SEC. 318. UNCONSOLIDATED QUATERNARY AQUIFER.

Notwithstanding any other provision of law, no person may—

(1) locate or authorize the location of a landfill, surface impoundment, waste pile, injection well, or land treatment facility over the Unconsolidated Quaternary Aquifer, or the recharge zone or streamflow source zone of such aquifer, in the Rockaway River Basin, New Jersey (as such aquifer and zones are described in the Federal Register, January 24, 1984, pages 2946-2948); or

(2) place or authorize the placement of solid waste in a landfill, surface impoundment, waste pile, injection well, or land treatment facility over such aquifer or zone.

This section may be enforced under sections 309 (a) and (b) of the Federal Water Pollution Control Act. For purposes of section 309(c) of such Act, a violation of this section shall be considered a violation of section 301 of the Federal Water Pollution Control Act.

TITLE IV—PERMITS AND LICENSES

SEC. 401. STORMWATER RUNOFF FROM OIL, GAS, AND MINING OPERATIONS.

(a) Limitation on Permit Requirement.—Section 402(l) is amended by inserting "(1) Agricultural return flows.—" before "The Administrator" and by adding at the end thereof the following:

"(2) Stormwater runoff from oil, gas, and mining operations.—The Administrator shall not require a permit under this section, nor shall the Administrator directly or indirectly require any State to require a permit, for discharges of stormwater runoff from mining operations or oil and gas exploration, production, processing, or treatment operations or transmission facilities, composed entirely of flows which are from conveyances or systems of conveyances (including but not limited to pipes, conduits, ditches, and channels) used for collecting and conveying precipitation runoff and which are not contaminated by contact with, or do not come into contact with, any overburden, raw material, intermediate products, finished product, by-product, or waste products located on the site of such operations.".

(b) Conforming Amendments.—Section 402(l) is further amended—

(1) by inserting "Limitation on Permit Requirement.—" after "(l)"; and

(2) by indenting paragraph (1) of such section, as designated by subsection (a) of this section, and aligning such paragraph with paragraph (2) of such section, as added by such subsection (a).

SEC. 402. ADDITIONAL PRETREATMENT OF CONVENTIONAL POLLUTANTS NOT REQUIRED.

Section 402 is amended by adding at the end thereof the following new subsection:

"(m) Additional Pretreatment of Conventional Pollutants Not Required.—To the extent a treatment works (as defined in section 212 of this Act) which is publicly owned is not meeting the requirements of a permit issued under this section for such treatment works as a result of inadequate design or operation of such treatment works, the Administrator, in issuing a permit under this section, shall not require pretreatment by a person introducing conventional pollutants identified pursuant to section 304(a)(4) of this Act into such treatment works other than pretreatment required to assure compliance with pretreatment standards under subsection (b)(8) of this section and section 307(b)(1) of this Act. Nothing in this subsection shall affect the Administrator's authority under sections 307 and 309 of this Act, affect State and local authority under sections 307(b)(4) and 510 of this Act, relieve such treatment works of its obligations to meet requirements established under this Act, or otherwise preclude such works from pursuing whatever feasible options are available to meet its responsibility to comply with its permit under this section.".

SEC. 403. PARTIAL NPDES PROGRAM.

(a) Partial Permit Program.—Section 402 is amended by adding at the end the following:

"(n) Partial Permit Program.—

"(1) State submission.—The Governor of a State may submit under subsection (b) of this section a permit program for a portion of the discharges into the navigable waters in such State.

"(2) Minimum coverage.—A partial permit program under this subsection shall cover, at a minimum, administration of a major category of the discharges into the navigable waters of the State or a major component of the permit program required by subsection (b).

"(3) Approval of major category partial permit programs.—The Administrator may approve a partial permit program covering administration of a major category of discharges under this subsection if—

"(A) such program represents a complete permit program and covers all of the discharges under the jurisdiction of a department or agency of the State; and

"(B) the Administrator determines that the partial program represents a significant and identifiable part of the State program required by subsection (b).

"(4) Approval of major component partial permit programs.—The Administrator may approve under this subsection a partial and phased permit program covering administration of a major component (including discharge categories) of a State permit program required by subsection (b) if—

"(A) the Administrator determines that the partial program represents a significant and identifiable part of the State program required by subsection (b); and

"(B) the State submits, and the Administrator approves, a plan for the State to assume administration by phases of the remainder of the State program required by subsection (b) by a specified date not more than 5 years after submission of the partial program under this subsection and agrees to make all reasonable efforts to assume such administration by such date.".

(b) Return of State Permit Program to Administrator.—

(1) In general.—Section 402(c) is amended by adding at the end thereof the following new paragraph:

"(4) Limitations on partial permit program returns and withdrawals.—A State may return to the Administrator administration, and the Administrator may withdraw under paragraph (3) of this subsection approval, of—

"(A) a State partial permit program approved under subsection (n)(3) only if the entire permit program being administered by the State department or agency at the time is returned or withdrawn; and

"(B) a State partial permit program approved under subsection (n)(4) only if an entire phased component of the permit program being administered by the State at the time is returned or withdrawn.".

(2) Conforming amendment.—Section 402(c)(1) is amended by striking out "as to those navigable waters" and inserting in lieu thereof "as to those discharges".

SEC. 404. ANTI-BACKSLIDING.

(a) General Rule.—Section 402 is amended by adding at the end thereof the following new subsection:

"(o) Anti-Backsliding.—

"(1) General prohibition.—In the case of effluent limitations established on the basis of subsection (a)(1)(B) of this section, a permit may not be renewed, reissued, or modified on the basis of effluent guidelines promulgated under section 304(b) subsequent to the original issuance of such permit, to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit. In the case of effluent limitations established on the basis of section 301(b)(1)(C) or section 303 (d) or (e), a permit may not be renewed, reissued, or modified to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit except in compliance with section 303(d)(4).

"(2) Exceptions.—A permit with respect to which paragraph (1) applies may be renewed, reissued, or modified to contain a less stringent effluent limitation applicable to a pollutant if—

"(A) material and substantial alterations or additions to the permitted facility occurred after permit issuance which justify the application of a less stringent effluent limitation;

"(B)(i) information is available which was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and which would have justified the application of a less stringent effluent limitation at the time of permit issuance; or

"(ii) the Administrator determines that technical mistakes or mistaken interpretations of law were made in issuing the permit under subsection (a)(1)(B);

"(C) a less stringent effluent limitation is necessary because of events over which the permittee has no control and for which there is no reasonably available remedy;

"(D) the permittee has received a permit modification under section 301(c), 301(g), 301(h), 301(i), 301(k), 301(n), or 316(a); or

"(E) the permittee has installed the treatment facilities required to meet the effluent limitations in the previous permit and has properly operated and maintained the facilities but has nevertheless been unable to achieve the previous effluent limitations, in which case the limitations in the reviewed, reissued, or modified permit may reflect the level of pollutant control actually achieved (but shall not be less stringent than required by effluent guidelines in effect at the time of permit renewal, reissuance, or modification).

Subparagraph (B) shall not apply to any revised waste load allocations or any alternative grounds for translating water quality standards into effluent limitations, except where the cumulative effect of such revised allocations results in a decrease in the amount of pollutants discharged into the concerned waters, and such revised allocations are not the result of a discharger eliminating or substantially reducing its discharge of pollutants due to complying with the requirements of this Act or for reasons otherwise unrelated to water quality.

"(3) Limitations.—In no event may a permit with respect to which paragraph (1) applies be renewed, reissued, or modified to contain an effluent limitation which is less stringent than required by effluent guidelines in effect at the time the permit is renewed, reissued, or modified. In no event may such a permit to discharge into waters be renewed, reissued, or modified to contain a less stringent effluent limitation if the implementation of such limitation would result in a violation of a water quality standard under section 303 applicable to such waters.".

(b) Limitations on Revision of Certain Effluent Limitations.—Section 303(d) of the Act is amended by adding at the end thereof the following new paragraph:

"(4) Limitations on revision of certain effluent limitations.—

"(A) Standard not attained.—For waters identified under paragraph (1)(A) where the applicable water quality standard has not yet been attained, any effluent limitation based on a total maximum daily load or other waste load allocation established under this section may be revised only if (i) the cumulative effect of all such revised effluent limitations based on such total maximum daily load or waste load allocation will assure the attainment of such water quality standard, or (ii) the designated use which is not being attained is removed in accordance with regulations established under this section.

"(B) Standard attained.—For waters identified under paragraph (1)(A) where the quality of such waters equals or exceeds levels necessary to protect the designated use for such waters or otherwise required by applicable water quality standards, any effluent limitation based on a total maximum daily load or other waste load allocation established under this section, or any water quality standard established under this section, or any other permitting standard may be revised only if such revision is subject to and consistent with the antidegradation policy established under this section.".

(c) Study.—The Administrator shall study—

(1) the extent to which States have reviewed, revised, and adopted water quality standards in accordance with section 24 of the Municipal Wastewater Treatment Construction Grant Amendments of 1981; and

(2) the extent to which modifications of permits issued under section 402(a)(1)(B) of the Federal Water Pollution Control Act for the purpose of reflecting any revisions to water quality standards should be encouraged or discouraged.

The Administrator shall submit a report on such study, together with recommendations, to Congress not later than 2 years after the date of the enactment of this Act.

(d) Conforming Amendment.—Section 402(a)(1) is amended by inserting "(A)" after "either" and by inserting "(B)" after "this Act, or".

SEC. 405. MUNICIPAL AND INDUSTRIAL STORMWATER DISCHARGES.

Section 402 is amended by adding at the end thereof the following new subsection:

"(p) Municipal and Industrial Stormwater Discharges.—

"(1) General rule.—Prior to October 1, 1992, the Administrator or the State (in the case of a permit program approved under section 402 of this Act) shall not require a permit under this section for discharges composed entirely of stormwater.

"(2) Exceptions.—Paragraph (1) shall not apply with respect to the following stormwater discharges:

"(A) A discharge with respect to which a permit has been issued under this section before the date of the enactment of this subsection.

"(B) A discharge associated with industrial activity.

"(C) A discharge from a municipal separate storm sewer system serving a population of 250,000 or more.

"(D) A discharge from a municipal separate storm sewer system serving a population of 100,000 or more but less than 250,000.

"(E) A discharge for which the Administrator or the State, as the case may be, determines that the stormwater discharge contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States.

"(3) Permit requirements.—

"(A) Industrial discharges.—Permits for discharges associated with industrial activity shall meet all applicable provisions of this section and section 301.

"(B) Municipal discharge.—Permits for discharges from municipal storm sewers—

"(i) may be issued on a system- or jurisdiction-wide basis;

"(ii) shall include a requirement to effectively prohibit non-stormwater discharges into the storm sewers; and

"(iii) shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants.

"(4) Permit application requirements.—

"(A) Industrial and large municipal discharges.—Not later than 2 years after the date of the enactment of this subsection, the Administrator shall establish regulations setting forth the permit application requirements for stormwater discharges described in paragraphs (2)(B) and (2)(C). Applications for permits for such discharges shall be filed no later than 3 years after such date of enactment. Not later than 4 years after such date of enactment, the Administrator or the State, as the case may be, shall issue or deny each such permit. Any such permit shall provide for compliance as expeditiously as practicable, but in no event later than 3 years after the date of issuance of such permit.

"(B) Other municipal discharges.—Not later than 4 years after the date of the enactment of this subsection, the Administrator shall establish regulations setting forth the permit application requirements for stormwater discharges described in paragraph (2)(D). Applications for permits for such discharges shall be filed no later than 5 years after such date of enactment. Not later than 6 years after such date of enactment, the Administrator or the State, as the case may be, shall issue or deny each such permit. Any such permit shall provide for compliance as expeditiously as practicable, but in no event later than 3 years after the date of issuance of such permit.

"(5) Studies.—The Administrator, in consultation with the States, shall conduct a study for the purposes of—

"(A) identifying those stormwater discharges or classes of stormwater discharges for which permits are not required pursuant to paragraphs (1) and (2) of this subsection,

"(B) determining, to the maximum extent practicable, the nature and extent of pollutants in such discharges; and

"(C) establishing procedures and methods to control stormwater discharges to the extent necessary to mitigate impacts on water quality.

Not later than October 1, 1988, the Administrator shall submit to Congress a report on the results of the study described in subparagraphs (A) and (B). Not later than October 1, 1989, the Administrator shall submit to Congress a report on the results of the study described in subparagraph (C).

"(6) Regulations.—Not later than October 1, 1992, the Administrator, in consultation with State and local officials, shall issue regulations (based on the results of the studies conducted under paragraph (5)) which designate stormwater discharges, other than those discharges described in paragraph (2), to be regulated to protect water quality and shall establish a comprehensive program to regulate such designated sources. The program shall, at a minimum, (A) establish priorities, (B) establish requirements for State stormwater management programs, and (C) establish expeditious deadlines. The program may include performance standards, guidelines, guidance, and management practices and treatment requirements, as appropriate.".

SEC. 406. SEWAGE SLUDGE.

(a) Identification and Regulation of Toxic Pollutants.—Section 405(d) is amended—

(1) by inserting "(1) Regulations.—" before "The Administrator, after";

(2) by striking "(1)", "(2)", and "(3)" and inserting in lieu thereof "(A)", "(B)", and "(C)", respectively; and

(3) by adding at the end the following new paragraphs:

"(2) Identification and regulation of toxic pollutants.—

"(A) On basis of available information.—

"(i) Proposed regulations.—Not later than November 30, 1986, the Administrator shall identify those toxic pollutants which, on the basis of available information on their toxicity, persistence, concentration, mobility, or potential for exposure, may be present in sewage sludge in concentrations which may adversely affect public health or the environment, and propose regulations specifying acceptable management practices for sewage sludge containing each such toxic pollutant and establishing numerical limitations for each such pollutant for each use identified under paragraph (1)(A).

"(ii) Final regulations.—Not later than August 31, 1987, and after opportunity for public hearing, the Administrator shall promulgate the regulations required by subparagraph (A)(i).

"(B) Others.—

"(i) Proposed regulations.—Not later than July 31, 1987, the Administrator shall identify those toxic pollutants not identified under subparagraph (A)(i) which may be present in sewage sludge in concentrations which may adversely affect public health or the environment, and propose regulations specifying acceptable management practices for sewage sludge containing each such toxic pollutant and establishing numerical limitations for each pollutant for each such use identified under paragraph (1)(A).

"(ii) Final regulations.—Not later than June 15, 1988, the Administrator shall promulgate the regulations required by subparagraph (B)(i).

"(C) Review.—From time to time, but not less often than every 2 years, the Administrator shall review the regulations promulgated under this paragraph for the purpose of identifying additional toxic pollutants and promulgating regulations for such pollutants consistent with the requirements of this paragraph.

"(D) Minimum standards; compliance date.—The management practices and numerical criteria established under subparagraphs (A), (B), and (C) shall be adequate to protect public health and the environment from any reasonably anticipated adverse effects of each pollutant. Such regulations shall require compliance as expeditiously as practicable but in no case later than 12 months after their publication, unless such regulations require the construction of new pollution control facilities, in which case the regulations shall require compliance as expeditiously as practicable but in no case later than two years from the date of their publication.

"(3) Alternative standards.—For purposes of this subsection, if, in the judgment of the Administrator, it is not feasible to prescribe or enforce a numerical limitation for a pollutant identified under paragraph (2), the Administrator may instead promulgate a design, equipment, management practice, or operational standard, or combination thereof, which in the Administrator's judgment is adequate to protect public health and the environment from any reasonably anticipated adverse effects of such pollutant. In the event the Administrator promulgates a design or equipment standard under this subsection, the Administrator shall include as part of such standard such requirements as will assure the proper operation and maintenance of any such element of design or equipment.

"(4) Conditions on permits.—Prior to the promulgation of the regulations required by paragraph (2), the Administrator shall impose conditions in permits issued to publicly owned treatment works under section 402 of this Act or take such other measures as the Administrator deems appropriate to protect public health and the environment from any adverse effects which may occur from toxic pollutants in sewage sludge.

"(5) Limitation on statutory construction.—Nothing in this section is intended to waive more stringent requirements established by this Act or any other law.".

(b) Manner of Sludge Disposal.—Section 405(e) is amended to read as follows:

"(e) Manner of Sludge Disposal.—The determination of the manner of disposal or use of sludge is a local determination, except that it shall be unlawful for any person to dispose of sludge from a publicly owned treatment works or any other treatment works treating domestic sewage for any use for which regulations have been established pursuant to subsection (d) of this section, except in accordance with such regulations.".

(c) Implementation Through Permits.—Section 405 is further amended by adding at the end thereof the following:

"(f) Implementation of Regulations.—

"(1) Through section 402 permits.—Any permit issued under section 402 of this Act to a publicly owned treatment works or any other treatment works treating domestic sewage shall include requirements for the use and disposal of sludge that implement the regulations established pursuant to subsection (d) of this section, unless such requirements have been included in a permit issued under the appropriate provisions of subtitle C of the Solid Waste Disposal Act, part C of the Safe Drinking Water Act, the Marine Protection, Research, and Sanctuaries Act of 1972, or the Clean Air Act, or under State permit programs approved by the Administrator, where the Administrator determines that such programs assure compliance with any applicable requirements of this section. Not later than December 15, 1986, the Administrator shall promulgate procedures for approval of State programs pursuant to this paragraph.

"(2) Through other permits.—In the case of a treatment works described in paragraph (1) that is not subject to section 402 of this Act and to which none of the other above listed permit programs nor approved State permit authority apply, the Administrator may issue a permit to such treatment works solely to impose requirements for the use and disposal of sludge that implement the regulations established pursuant to subsection (d) of this section. The Administrator shall include in the permit appropriate requirements to assure compliance with the regulations established pursuant to subsection (d) of this section. The Administrator shall establish procedures for issuing permits pursuant to this paragraph.

"(g) Studies and Projects.—

"(1) Grant program; information gathering.—The Administrator is authorized to conduct or initiate scientific studies, demonstration projects, and public information and education projects which are designed to promote the safe and beneficial management or use of sewage sludge for such purposes as aiding the restoration of abandoned mine sites, conditioning soil for parks and recreation areas, agricultural and horticultural uses, and other beneficial purposes. For the purposes of carrying out this subsection, the Administrator may make grants to State water pollution control agencies, other public or nonprofit agencies, institutions, organizations, and individuals. In cooperation with other Federal departments and agencies, other public and private agencies, institutions, and organizations, the Administrator is authorized to collect and disseminate information pertaining to the safe and beneficial use of sewage sludge.

"(2) Authorization of appropriations.—For the purposes of carrying out the scientific studies, demonstration projects, and public information and education projects authorized in this section, there is authorized to be appropriated for fiscal years beginning after September 30, 1986, not to exceed $5,000,000.".

(d) Enforcement.—(1) Section 308(a)(4) is amended by inserting "405," before "and 504".

(2) Section 505(f) is amended by striking out "or" before "(6)", and by inserting before the period "; or (7) a regulation under section 405(d) of this Act,".

(3) Section 509(b)(1)(E) is amended by striking out "or 306" and inserting in lieu thereof "306, or 405".

(e) Removal Credits.—The part of the decision of Natural Resources Defense Council, Inc. v. U.S. Environmental Protection Agency, No. 84-3530 (3d. Cir. 1986), which addresses section 405(d) of the Federal Water Pollution Control Act is stayed until August 31, 1987, with respect to—

(1) those publicly owned treatment works the owner or operator of which received authority to revise pretreatment requirements under section 307(b)(1) of such Act before the date of the enactment of this section, and

(2) those publicly owned treatment works the owner or operator of which has submitted an application for authority to revise pretreatment requirements under such section 307(b)(1) which application is pending on such date of enactment and is approved before August 31, 1987.

The Administrator shall not authorize any other removal credits under such Act until the Administrator issues the regulations required by paragraph (2)(A)(ii) of section 405(d) of such Act, as amended by subsection (a) of this section.

(f) Conforming Amendments.—Section 405(d) is further amended—

(1) by inserting "Regulations.—" after "(d)";

(2) by indenting paragraph (1) (as designated by subsection (a)(1) of this section) and aligning such paragraph with paragraph (3), as added by subsection (a)(3); and

(3) in such paragraph (1) by aligning subparagraphs (A), (B), and (C) (as designated by subsection (a)(2) of this section) with subparagraph (C) of paragraph (2), as added by subsection (a)(3) of this section.

SEC. 407. LOG TRANSFER FACILITIES.

(a) Agreement.—The Administrator and Secretary of the Army shall enter into an agreement regarding coordination of permitting for log transfer facilities to designate a lead agency and to process permits required under sections 402 and 404 of the Federal Water Pollution Control Act, where both such sections apply, for discharges associated with the construction and operation of log transfer facilities. The Administrator and Secretary are authorized to act in accordance with the terms of such agreement to assure that, to the maximum extent practicable, duplication, needless paperwork and delay in the issuance of permits, and inequitable enforcement between and among facilities in different States, shall be eliminated.

(b) Applications and Permits Before October 22, 1985.—Where both of sections 402 and 404 of the Federal Water Pollution Control Act apply, log transfer facilities which have received a permit under section 404 of such Act before October 22, 1985, shall not be required to submit a new application for a permit under section 402 of such Act. If the Administrator determines that the terms of a permit issued on or before October 22, 1985, under section 404 of such Act satisfies the applicable requirements of sections 301, 302, 306, 307, 308, and 403 of such Act, a separate application for a permit under section 402 of such Act shall not thereafter be required. In any case where the Administrator demonstrates, after an opportunity for a hearing, that the terms of a permit issued on or before October 22, 1985, under section 404 of such Act do not satisfy the applicable requirements of sections 301, 302, 306, 307, 308, and 403 of such Act, modifications to the existing permit under section 404 of such Act to incorporate such applicable requirements shall be issued by the Administrator as an alternative to issuance of a separate new permit under section 402 of such Act.

(c) Log Transfer Facility Defined.—For the purposes of this section, the term "log transfer facility" means a facility which is constructed in whole or in part in waters of the United States and which is utilized for the purpose of transferring commercially harvested logs to or from a vessel or log raft, including the formation of a log raft.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. AUDITS.

Section 501(d) is amended by inserting at the end the following new sentences: "For the purpose of carrying out audits and examinations with respect to recipients of Federal assistance under this Act, the Administrator is authorized to enter into noncompetitive procurement contracts with independent State audit organizations, consistent with chapter 75 of title 31, United States Code. Such contracts may only be entered into to the extent and in such amounts as may be provided in advance in appropriation Acts.".

SEC. 502. COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.

(a) Defined as a State.—Section 502(3) is amended by inserting "the Commonwealth of the Northern Mariana Islands," after "Samoa,".

(b) Defined as Part of United States.—Section 311(a)(5) is amended by striking out "the Canal Zone," and inserting in lieu thereof "the Commonwealth of the Northern Mariana Islands,".

SEC. 503. AGRICULTURAL STORMWATER DISCHARGES.

Section 502(14) (relating to the definition of point source) is amended by inserting after "does not include" the following: "agricultural stormwater discharges and".

SEC. 504. PROTECTION OF INTERESTS OF UNITED STATES IN CITIZEN SUITS.

Section 505(c) is amended by adding at the end thereof the following new paragraph:

"(3) Protection of interests of united states.—Whenever any action is brought under this section in a court of the United States, the plaintiff shall serve a copy of the complaint on the Attorney General and the Administrator. No consent judgment shall be entered in an action in which the United States is not a party prior to 45 days following the receipt of a copy of the proposed consent judgment by the Attorney General and the Administrator.".

SEC. 505. JUDICIAL REVIEW AND AWARD OF FEES.

(a) Location; Deadline for Appeal.—Section 509(b)(1) is amended—

(1) by striking out "transacts such business" and inserting in lieu thereof, "transacts business which is directly affected by such action"; and

(2) by striking out "ninety" and "ninetieth" and inserting in lieu thereof "120" and "120th", respectively.

(b) Venue; Award of Fees.—Section 509(b) is amended by adding at the end thereof the following new paragraphs:

"(3) Venue.—

"(A) Selection procedure.—If applications for review of the same agency action have been filed under paragraph (1) of this subsection in 2 or more Circuit Courts of Appeals of the United States and the Administrator has received written notice of the filing of one or more applications within 30 days or less after receiving written notice of the filing of the first application, then the Administrator shall promptly advise in writing the Administrative Office of the United States Courts that applications have been filed in 2 or more Circuit Courts of Appeals of the United States, and shall identify each court for which he has written notice that such applications have been filed within 30 days or less of receiving written notice of the filing of the first such application. Pursuant to a system of random selection devised for this purpose, the Administrative Office thereupon shall, within 3 business days of receiving such written notice from the Administrator, select the court in which the record shall be filed from among those identified by the Administrator. Upon notification of such selection, the Administrator shall promptly file the record in such court. For the purpose of review of agency action which has previously been remanded to the Administrator, the record shall be filed in the Circuit Court of Appeals of the United States which remanded such action.

"(B) Administrative provisions.—Where applications have been filed under paragraph (1) of this subsection in two or more Circuit Courts of Appeals of the United States with respect to the same agency action and the record has been filed in one of such courts pursuant to subparagraph (A), the other courts in which such applications have been filed shall promptly transfer such applications to the Circuit Court of Appeals of the United States in which the record has been filed. Pending selection of a court pursuant to subparagraph (A), any court in which an application has been filed under paragraph (1) of this subsection may postpone the effective date of the agency action until 15 days after the Administrative Office has selected the court in which the record shall be filed.

"(C) Transfers.—Any court in which an application with respect to any agency action has been filed under paragraph (1) of this subsection, including any court selected pursuant to subparagraph (A), may transfer such application to any other Circuit Court of Appeals of the United States for the convenience of the parties or otherwise in the interest of justice.

"(4) Award of fees.—In any judicial proceeding under this subsection, the court may award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing or substantially prevailing party whenever it determines that such award is appropriate.".

(c) Conforming Amendment for Citizen Suit Actions.—The first sentence of section 505(d) is amended by inserting "prevailing or substantially prevailing" before "party".

SEC. 506. INDIAN TRIBES.

Title V is amended by redesignating section 518, and any references thereto, as section 519 and by inserting after section 517 the following new section:

"SEC. 518. INDIAN TRIBES.

"(a) Policy.—Nothing in this section shall be construed to affect the application of section 101(g) of this Act, and all of the provisions of this section shall be carried out in accordance with the provisions of such section 101(g). Indian tribes shall be treated as States for purposes of such section 101(g).

"(b) Assessment of Sewage Treatment Needs; Report.—The Administrator, in cooperation with the Director of the Indian Health Service, shall assess the need for sewage treatment works to serve Indian tribes, the degree to which such needs will be met through funds allotted to States under section 205 of this Act and priority lists under section 216 of this Act, and any obstacles which prevent such needs from being met. Not later than one year after the date of the enactment of this section, the Administrator shall submit a report to Congress on the assessment under this subsection, along with recommendations specifying (1) how the Administrator intends to provide assistance to Indian tribes to develop waste treatment management plans and to construct treatment works under this Act, and (2) methods by which the participation in and administration of programs under this Act by Indian tribes can be maximized.

"(c) Reservation of Funds.—The Administrator shall reserve each fiscal year beginning after September 30, 1986, before allotments to the States under section 205(e), one-half of one percent of the sums appropriated under section 207. Sums reserved under this subsection shall be available only for grants for the development of waste treatment management plans and for the construction of sewage treatment works to serve Indian tribes.

"(d) Cooperative Agreements.—In order to ensure the consistent implementation of the requirements of this Act, an Indian tribe and the State or States in which the lands of such tribe are located may enter into a cooperative agreement, subject to the review and approval of the Administrator, to jointly plan and administer the requirements of this Act.

"(e) Treatment as States.—The Administrator is authorised to treat an Indian tribe as a State for purposes of title II and sections 104, 106, 303, 305, 308, 309, 314, 319, 401, 402, and 404 of this Act to the degree necessary to carry out the objectives of this section, but only if—

"(1) the Indian tribe has a governing body carrying out substantial governmental duties and powers;

"(2) the functions to be exercised by the Indian tribe pertain to the management and protection of water resources which are held by an Indian tribe, held by the United States in trust for Indians, held by a member of an Indian tribe if such property interest is subject to a trust restriction on alienation, or otherwise within the borders of an Indian reservation; and

"(3) the Indian tribe is reasonably expected to be capable, in the Administrator's judgment, of carrying out the functions to be exercised in a manner consistent with the terms and purposes of this Act and of all applicable regulations.

Such treatment as a State may include the direct provision of funds reserved under subsection (c) to the governing bodies of Indian tribes, and the determination of priorities by Indian tribes, where not determined by the Administrator in cooperation with the Director of the Indian Health Service. The Administrator, in cooperation with the Director of the Indian Health Service, is authorized to make grants under title II of this Act in an amount not to exceed 100 percent of the cost of a project. Not later than 18 months after the date of the enactment of this section, the Administrator shall, in consultation with Indian tribes, promulgate final regulations which specify how Indian tribes shall be treated as States for purposes of this Act. The Administrator shall, in promulgating such regulations, consult affected States sharing common water bodies and provide a mechanism for the resolution of any unreasonable consequences that may arise as a result of differing water quality standards that may be set by States and Indian tribes located on common bodies of water. Such mechanism shall provide for explicit consideration of relevant factors including, but not limited to, the effects of differing water quality permit requirements on upstream and downstream dischargers, economic impacts, and present and historical uses and quality of the waters subject to such standards. Such mechanism should provide for the avoidance of such unreasonable consequences in a manner consistent with the objective of this Act.

"(f) Grants for Nonpoint Source Programs.—The Administrator shall make grants to an Indian tribe under section 319 of this Act as though such tribe was a State. Not more than one-third of one percent of the amount appropriated for any fiscal year under section 319 may be used to make grants under this subsection. In addition to the requirements of section 319, an Indian tribe shall be required to meet the requirements of paragraphs (1), (2), and (3) of subsection (d) of this section in order to receive such a grant.

"(g) Alaska Native Organizations.—No provision of this Act shall be construed to—

"(1) grant, enlarge, or diminish, or in any way affect the scope of the governmental authority, if any, of any Alaska Native organization, including any federally-recognized tribe, traditional Alaska Native council, or Native council organized pursuant to the Act of June 18, 1934 (48 Stat. 987), over lands or persons in Alaska;

"(2) create or validate any assertion by such organization or any form of governmental authority over lands or persons in Alaska; or

"(3) in any way affect any assertion that Indian country, as defined in section 1151 of title 18, United States Code, exists or does not exist in Alaska.

"(h) Definitions.—For purposes of this section, the term—

"(1) 'Federal Indian reservation' means all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation; and

"(2) 'Indian tribe' means any Indian tribe, band, group, or community recognized by the Secretary of the Interior and exercising governmental authority over a Federal Indian reservation.".

SEC. 507. DEFINITION OF POINT SOURCE.

For purposes of the Federal Water Pollution Control Act, the term "point source" includes a landfill leachate collection system.

SEC. 508. SPECIAL PROVISIONS REGARDING CERTAIN DUMPING SITES.

(a) Finding.—The Congress finds that the New York Bight Apex is no longer a suitable location for the ocean dumping of municipal sludge.

(b) General Rule.—Title I of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.) is further amended by inserting after section 104 the following new section:

"SPECIAL PROVISIONS REGARDING CERTAIN DUMPING SITES

"Sec. 104A. (a) New York Bight Apex.—(1) For purposes of this subsection:

"(A) The term 'Apex' means the New York Bight Apex consisting of the ocean waters of the Atlantic Ocean westward of 73 degrees 30 minutes west longitude and northward of 40 degrees 10 minutes north latitude.

"(B) The term 'Apex site' means that site within the Apex at which the dumping of municipal sludge occurred before October 1, 1983.

"(C) The term 'eligible authority' means any sewerage authority or other unit of State or local government that on November 2, 1983, was authorized under court order to dump municipal sludge at the Apex site.

"(2) No person may apply for a permit under this title in relation to the dumping of, or the transportation for purposes of dumping, municipal sludge within the Apex unless that person is an eligible authority.

"(3) The Administrator may not issue, or renew, any permit under this title that authorizes the dumping of, or the transportation for purposes of dumping, municipal sludge within the Apex after the earlier of—

"(A) December 15, 1987; or

"(B) the day determined by the Administrator to be the first day on which municipal sludge generated by eligible authorities can reasonably be dumped at a site designated under section 102 other than a site within the Apex.

"(b) Restriction on Use of the 106-Mile Site.—The Administrator may not issue or renew any permit under this title which authorizes any person, other than a person that is an eligible authority within the meaning of subsection (a)(1)(C), to dump, or to transport for the purposes of dumping, municipal sludge within the site designated under section 102(c) by the Administrator and known as the '106-Mile Ocean Waste Dump Site' (as described in 49 F.R. 19005).".

SEC. 509. OCEAN DISCHARGE RESEARCH PROJECTS.

(a) In General.—Notwithstanding any other provision of law, the Administrator is authorized to issue a research permit to the Orange County, California, Sanitation Districts for the discharge of preconditioned municipal sewage sludge into the ocean for the purpose of enabling research to be conducted in assessing and analyzing the effects of disposing of sewage sludge by pipeline into ocean waters—

(1) if the Administrator is satisfied that such local governmental agency is actively pursuing long-term land-based options for the handling of its sludge with special emphasis on remote disposal alternatives set forth in the 1980 LA/OMA sludge management project and on reuse of sludge or use of recycled sludge; and

(2) if the Administrator determines that there is no likelihood of an unacceptable adverse effect on the environment as a result of issuance of such permit and that such permit would meet the requirements of paragraph (2) of section 301(h) of the Federal Water Pollution Control Act, as amended by this Act, and of the sentences following the first sentence of such section if such permit were being issued under such section.

(b) Permit Terms.—

(1) Period.—The permit for the discharge of sludge shall be for a period of 5 years commencing on the date of such discharge and shall not be extended or renewed.

(2) Monitoring.—Such permit shall provide for monitoring (including whole effluent monitoring) of permitted discharges and other discharges into the ocean in the same area and the effects of such discharges (including cumulative effects) in conformance with requirements established by the Administrator, after consultation with appropriate Federal and State agencies, and for the reporting of such monitoring to Congress and the Administrator every 6 months.

(3) Volume of discharge.—Such permit shall provide that the volume of such local agency's sludge disposed of by such experimental pipeline shall be no more than one and one-half times that being disposed of by such remote disposal and alternatives for the reuse of sludge and the use of recycled sludge. In no event shall the agency dispose of more than 50 percent of its sludge by the pipeline.

(4) Termination.—The permit shall provide for termination of the permit if the Administrator determines that the disposal of sewage sludge is resulting in an unacceptable adverse impact on fish, shellfish, and wildlife. The Administrator may terminate a permit issued under this section if the Administrator determines that there has been a decline in ambient water quality of the receiving waters during the period of the permit even if a direct cause and effect relationship cannot be shown. If the effluent from a source with a permit issued under this section is contributing to a decline in ambient water quality of the receiving waters, the Administrator shall terminate such permit.

(c) Limitation on Precedent.—The facts and circumstances described in subsection (a) present a unique situation which will not establish a precedent for the relaxation of the requirements of the Federal Water Pollution Control Act applicable to similarly situated discharges.

(d) Report.—Such districts shall report the results of the program and an analysis of such program to Congress under this section not later than four and one-half years after issuance of the permit.

SEC. 510. SAN DIEGO, CALIFORNIA.

(a) Purpose.—The purpose of this section is to protect the economy, public health, environment, surface water and public beaches, and water quality of the city of San Diego, California, and surrounding areas, which are endangered and are being polluted by raw sewage emanating from the city of Tijuana, Mexico.

(b) Construction Grants.—Upon approval of the necessary plans and specifications, the Administrator is authorized to make grants to the Secretary of State, acting through the American Section of the International Boundary and Water Commission (hereinafter in this section referred to as the "Commission"), or any other Federal agency or any other appropriate commission or entity designated by the President. Such grants shall be for construction of a project consisting of—

(1) defensive treatment works to protect the residents of the city of San Diego, California, and surrounding areas from pollution resulting from any inadequacies or breakdowns in wastewater treatment works and systems in Mexico; and

(2) treatment works in the city of San Diego, California, to provide primary or more advanced treatment of municipal sewage and industrial waste from Mexico, including the city of Tijuana, Mexico.

(c) Limitation on Grants.—Notwithstanding subsection (b), the Administrator may make grants for construction of treatment works described in subsection (b)(2) only if, after public notice and comment, the Administrator determines that treatment works in Mexico, in conjunction with any defensive treatment works constructed under this or any other Act, are not sufficient to protect the residents of the city of San Diego, California, and surrounding areas from water pollution originating in Mexico.

(d) Operation and Maintenance.—The Commission or such other agency, commission, or entity as may be designated under subsection (b) is authorized to operate and maintain any treatment works constructed under subsection (b) in order to accomplish the purposes of this section.

(e) Approval of Plans.—Any treatment works for which a grant is made under this section shall be constructed in accordance with plans developed by the Commission or such other agency, commission, or entity as may be designated under subsection (b), in consultation with the city of San Diego, and approved by the Administrator to meet the construction standards which would be applicable if such treatment works were being constructed under title II of the Federal Water Pollution Control Act.

(f) Federal Share.—Construction of the treatment works under subsection (b) shall be at full Federal expense less any costs paid by the State of California and less any costs paid by the Government of Mexico as a result of agreements negotiated with the United States.

(g) Ocean Outfall Permit.—Notwithstanding section 301(j) of the Federal Water Pollution Control Act, upon application of the city of San Diego, California, the Administrator may issue a permit under section 301(h) of such Act which modifies the requirements of section 301(b)(1)(B) of such Act to permit the discharge of pollutants for any ocean outfall constructed with Federal assistance under this section if the Administrator finds that issuing such permit is in the best interests of achieving the goals and requirements of such Act. The Administrator may waive the requirements of section 301(h)(5) of such Act with respect to the issuance of such permit if the Administrator finds that such waiver is in the best interests of achieving the goals and requirements of such Act.

(h) Treatment of San Diego Sewage.—If any treatment works constructed pursuant to this section becomes no longer necessary to provide protection from pollution originating in Mexico, the city of San Diego, California, may use such treatment works to treat municipal and individual waste originating in the city of San Diego and surrounding areas if the city of San Diego enters into a binding agreement with the Administrator to pay to the United States 45 percent of the costs incurred in the construction of such treatment works.

(i) Definitions.—For purposes of this section, the terms "construction" and "treatment works" have the meanings such terms have under section 212 of the Federal Water Pollution Control Act.

(j) Authorization of Appropriations.—There is authorized to be appropriated for fiscal years beginning after September 30, 1986, such sums as may be necessary to the Administrator to make grants under this section and such sums as may be necessary to the Commission or such other agency, commission, or entity as the President may designate under subsection (b), to carry out this section.

SEC. 511. LIMITATION ON DISCHARGE OF RAW SEWAGE BY NEW YORK CITY.

(a) In General.—

(1) North river plant.—If the wastewater treatment plant identified in the consent decree as the North River plant has not achieved advanced preliminary treatment as required under the terms of the consent decree by August 1, 1986, the city of New York shall not discharge raw sewage from the drainage area of such plant (as defined in the consent decree) into navigable waters after such date in an amount which is greater for any 30-day period than an amount equal to 30 times the average daily amount of raw sewage discharged from such drainage area during the 12-month period ending on the earlier of the date on which such plant becomes operational or March 15, 1986 (as determined by the Administrator), except as provided in subsection (b).

(2) Red hook plant.—If the wastewater treatment plant identified in the consent decree as the Red Hook plant has not achieved advanced preliminary treatment as required under the terms of the consent decree by August 1, 1987, the city of New York shall not discharge raw sewage from the drainage area of such plant (as defined in the consent decree) into navigable waters after such date in an amount which is greater for any 30-day period than an amount equal to 30 times the average daily amount of raw sewage discharged from such drainage area during the 12-month period ending on the earlier of the date on which such plant becomes operational or March 15, 1987 (as determined by the Administrator),

except as provided in subsection (b).

(b) Waivers.—

(1) Interruption of plant operation.—In the event of any significant interruption in the operation of the North River plant or the Red Hook plant caused by an event described in subparagraph (A), (B), or (C) of paragraph (5) occurring after the applicable deadline established under subsection (a), the Administrator shall waive the limitation of subsection (a) with respect to such plant, but only to such extent and for such limited period of time as may be reasonably necessary for the city of New York to resume operation of such plant.

(2) Increased precipitation.—In the event that the volume of precipitation occurring after the applicable deadline established under subsection (a) causes the discharge of raw sewage to exceed the limitation under subsection (a), the Administrator shall waive the limitation of subsection (a) with respect to either or both such plants, but only to such extent and for such limited period of time as the Administrator determines to be necessary to take into account the increased discharge caused by such volume of precipitation.

(3) Variations in certain North River drainage area discharges.—In the event that an increase in discharges from the North River drainage area constituting a violation of subsection (a)(1) is due to a random or seasonal variation, and that any sewer hookup occurring, or permit for a sewer hookup granted, after July 31, 1986, is not responsible for such violation, the Administrator shall waive the limitation of subsection (a)(1), but only to such extent and for such limited period of time as the Administrator determines to be reasonably necessary to take into account such random or seasonal variation.

(4) Variations in certain Red Hook drainage area discharges.—In the event that an increase in discharges from the Red Hook drainage area constituting a violation of subsection (a)(2) is due to a random or seasonal variation, and that any sewer hookup occurring, or permit for a sewer hookup granted, after July 31, 1987, is not responsible for such violation, the Administrator shall waive the limitation of subsection (a)(2), but only to such extent and for such limited period of time as the Administrator determines to be reasonably necessary to take into account such random or seasonal variation.

(5) Circumstances beyond city's control.—The Administrator shall extend either deadline under paragraph (1) or (2) of subsection (a) to such extent and for such limited period of time as may be reasonably required to take into account any—

(A) act of war,

(B) unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight, or

(C) other circumstances beyond the control of the city of New York, except such circumstances shall not include (i) the unavailability of Federal funds under section 201 of the Federal Water Pollution Control Act, (ii) the unavailability of funds from the city of New York or the State of New York, or (iii) a policy decision made by the city of New York or the State of New York to delay the achievement of advanced preliminary treatment at the North River plant or Red Hook plant beyond the applicable deadline set forth in subsection (a).

(c) Penalties.—Except as otherwise provided in subsection (b), any violation of subsection (a) shall be considered to be a violation of section 301 of the Federal Water Pollution Control Act, and all provisions of such Act relating to violations of such section 301 shall apply.

(d) Consent Decree Defined.—For purposes of this section, the term "consent decree" means the consent decree entered into by the Environmental Protection Agency, the city of New York, and the State of New York, on December 30, 1982, relating to construction and operation of the North River and Red Hook wastewater treatment plants.

(e) Cooperation.—The Administrator shall work with the city of New York to eliminate the discharge of raw sewage by such city at the earliest practicable date.

(f) Savings Clause.—Nothing in this section shall be construed as modifying the terms of the consent decree.

(g) Sense of Congress.—It is the sense of Congress that the Administrator should not agree to any further modification of the consent decree with respect to the schedule for achieving advanced preliminary treatment.

(h) Termination Dates.—

(1) North river plant.—The provisions of this section shall remain in effect with respect to the North River drainage area until such time as the North River plant has achieved advanced preliminary treatment (as defined in the consent decree) for a period of six consecutive months.

(2) Red hook plant.—The provisions of this section shall remain in effect with respect to the Red Hook drainage area until such time as the Red Hook plant has achieved advanced preliminary treatment (as defined in the consent decree) for a period of six consecutive months.

(i) Monitoring Activities.—The Administrator shall promptly establish and carry out a program within available funds to implement the monitoring activities which may be required under subsection (a).

(j) Establishment of Methodologies.—The Administrator shall establish the methodologies, data base, and any other information required for making determinations under subsection (b)—

(1) for the North River drainage area (as defined in the consent decree) by July 31, 1986, unless the requirements of subsection (h)(1) have been satisfied, and

(2) for the Red Hook drainage area (as defined by the consent decree) by July 31, 1987, unless the requirements of subsection (h)(2) have been satisfied.

(k) Violations.—In carrying out this section, if the Administrator finds that a violation of subsection (a) has occurred, the Administrator shall also determine, within 30 days after such finding, whether a provision of subsection (b) applies. If the Administrator requires information from the city of New York in order to determine whether a provision of subsection (b) applies, the Administrator shall request such information. If the city of New York does not supply the information requested by the Administrator, the Administrator shall determine that subsection (b) does not apply. The city of New York shall be responsible only for such expenses as are necessary to provide such requested information. Enforcement action pursuant to subsection (c) shall be commenced at the end of such 30 days unless a provision of subsection (b) applies.

SEC. 512. OAKWOOD BEACH AND RED HOOK PROJECTS, NEW YORK.

(a) Relocation of Natural Gas Facilities.—Notwithstanding any provision of the Federal Water Pollution Control Act, the Administrator shall pay, to the extent provided in appropriation Acts, in the same proportion as the Federal share of other project costs, all expenses for the relocation of facilities for the distribution of natural gas with respect to the entire wastewater treatment works known as the Oakwood Beach (EPA Grant Numbered 360392) and Red Hook (EPA Grant Numbered 360394) projects, New York.

(b) Authorization of Appropriations.—There is authorized to be appropriated for fiscal years beginning after September 30, 1986, not to exceed $7,000,000 to carry out this section.

SEC. 513. BOSTON HARBOR AND ADJACENT WATERS.

(a) Grants.—The Administrator shall make grants to the Massachusetts Water Resource Authority for purposes of—

(1) assessing the principal factors having an adverse effect on the environmental quality of Boston Harbor and its adjacent waters;

(2) developing and implementing a management program to improve the water quality of such Harbor and waters; and

(3) constructing necessary waste water treatment works for providing secondary treatment for the areas served by such authority.

(b) Federal Share.—The Federal share of projects described in subsection (a) shall not exceed 75 percent of the cost of construction thereof.

(c) Emergency Improvements.—The Administrator is authorized and directed to make grants to the Massachusetts Water Resource Authority for a project to undertake emergency improvements at the Deer Island Waste Water Treatment Plant in Boston, Massachusetts. The Federal share of such project shall not exceed 75 percent of the cost of carrying out such improvements.

(d) Authorization of Appropriations.—There is authorized to be appropriated $100,000,000 to carry out this section for fiscal years beginning after September 30, 1986, to remain available until expended. Such sums shall be in addition to and not in lieu of any other amounts authorized to be appropriated under title II of the Federal Water Pollution Control Act.

SEC. 514. WASTEWATER RECLAMATION DEMONSTRATION.

(a) Authority to Make Grants.—The Administrator is authorized to make a grant to the San Diego Water Reclamation Agency, California, to demonstrate and field test for public use innovative processes which advance the technology of wastewater reclamation and which promote the use of reclaimed wastewater.

(b) Federal Share.—The Federal share of grants made under this section shall be 85 percent of the costs of conducting such demonstration and field test.

(c) Authorization of Appropriations.—There is authorized to be appropriated not to exceed $2,000,000 to carry out this section for fiscal years beginning after September 30, 1986.

SEC. 515. DES MOINES, IOWA.

(a) Grant.—The Administrator is authorized to make a grant to the city of Des Moines, Iowa, for construction of the Central Sewage Treatment Plant component of the Des Moines, Iowa, metropolitan area project. The Federal share of such project shall be 75 percent of the cost of construction.

(b) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section not to exceed $50,000,000 for fiscal years beginning after September 30, 1986. Such sums shall be in addition to and not in lieu of any other amounts authorized to be appropriated under title II of the Federal Water Pollution Control Act.

SEC. 516. STUDY OF DE MINIMIS DISCHARGES.

(a) Study.—The Administrator shall conduct a study of discharges of pollutants into the navigable waters and their regulation under the Federal Water Pollution Control Act to determine whether or not there are discharges of pollutants into such waters in amounts which, in terms of volume, concentration, and type of pollutant, are not significant and to determine the most effective and appropriate methods of regulating any such discharge.

(b) Report.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall submit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of such study along with recommendations and findings concerning the most effective and appropriate methods of regulating any discharges of pollutants into the navigable waters in amounts which the Administrator determines under such study to be not significant.

SEC. 517. STUDY OF EFFECTIVENESS OF INNOVATIVE AND ALTERNATIVE PROCESSES AND TECHNIQUES.

(a) Effectiveness Study.—The Administrator shall study the effectiveness on waste treatment of innovative and alternative wastewater treatment processes and techniques referred to in section 201(g)(5) of the Federal Water Pollution Control Act which have been utilized in treatment works constructed under such Act. In conducting such study, the Administrator shall compile information, by State, on the types of such processes and techniques utilized, on the number of facilities constructed with such processes and techniques, and a description of such processes and techniques which have not performed to design standards. The Administrator shall also determine which States have not obligated the full amount set aside under section 205(i) of such Act for such processes and techniques and the reasons for each such State's failure to make such obligations.

(b) Report.—Not later than one year after the date of the enactment of this Act, the Administrator shall submit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of such study, along with recommendations for providing more effective incentives for innovative and alternative wastewater treatment processes and techniques.

SEC. 518. STUDY OF TESTING PROCEDURES.

(a) Study.—The Administrator shall study the testing procedures for analysis of pollutants established under section 304(h) of the Federal Water Pollution Control Act. Such study shall include, but not be limited to, an analysis of the adequacy and standardization of such procedures. In conducting the analysis of the standardization of such procedures, the Administrator shall consider the extent to which such procedures are consistent with comparable procedures established under other Federal laws.

(b) Report.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall submit a report on the results of the study conducted under this subsection, together with recommendations for modifying the test procedures referred to in subsection (a) to improve their effectiveness, to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate.

SEC. 519. STUDY OF PRETREATMENT OF TOXIC POLLUTANTS.

(a) Study.—The Administrator shall study—

(1) the adequacy of data on environmental impacts of toxic industrial pollutants discharged from publicly owned treatment works;

(2) the extent to which secondary treatment at publicly owned treatment works removes toxic pollutants;

(3) the capability of publicly owned treatment works to revise pretreatment requirements under section 307(b)(1) of the Federal Water Pollution Control Act;

(4) possible alternative regulatory strategies for protecting the operations of publicly owned treatment works from industrial discharges, and shall evaluate the extent to which each such strategy identified may be expected to achieve the goals of this Act;

(5) for each such alternative regulatory strategy, the extent to which removal of toxic pollutants by publicly owned treatment works results in contamination of sewage sludge and the extent to which pretreatment requirements may prevent such contamination or improve the ability of publicly owned treatment works to comply with sewage sludge criteria developed under section 405 of the Federal Water Pollution Control Act; and

(6) the adequacy of Federal, State, and local resources to establish, implement, and enforce multiple pretreatment limits for toxic pollutants for each such alternative strategy.

(b) Report.—Not later than 4 years after the date of the enactment of this Act, the Administrator shall submit a report on the results of such study along with recommendations for improving the effectiveness of pretreatment requirements to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate.

SEC. 520. STUDIES OF WATER POLLUTION PROBLEMS IN AQUIFERS.

(a) Studies.—The Administrator, in conjunction with State and local agencies and after providing an opportunity for full public participation, shall conduct studies for the purpose of identifying existing and potential point and nonpoint sources of pollution, and of identifying measures and practices necessary to control such sources of pollution, in the following groundwater systems and aquifers:

(1) the groundwater system of the Upper Santa Cruz Basin and the Avra-Altar Basin of Pima, Pinal, and Santa Cruz Counties, Arizona;

(2) the Spokane-Rathdrum Valley Aquifer, Washington and Idaho;

(3) the Nassau and Suffolk Counties Aquifer, New York;

(4) the Whidbey Island Aquifer, Washington;

(5) the Unconsolidated Quaternary Aquifer, Rockaway River area, New Jersey;

(6) contaminated ground water under Litchfield, Hartford, Fairfield, Tolland, and New Haven counties, Connecticut; and

(7) the Sparta Aquifer, Arkansas.

(b) Reports.—Not later than 2 years after the date of the enactment of this Act, the Administrator shall submit to Congress a report on the studies conducted under this section.

(c) Authorization of Appropriations.—There is authorized to be appropriated $7,000,000 for fiscal years beginning after September 30, 1986, to carry out this section.

SEC. 521. GREAT LAKES CONSUMPTIVE USE STUDY.

(a) Study of Consumptive Uses.—In recognition of the serious impacts on the Great Lakes environment that may occur as a result of increased consumption of Great Lakes water, including loss of wetlands and reduction of fish spawning and habitat areas, as well as serious economic losses to vital Great Lakes industries, and in recognition of the national goal to provide environmental protection and preservation of our natural resources while allowing for continued economic growth, the Secretary of the Army in cooperation with the Administrator, other interested departments, agencies, and instrumentalities of the United States, and the 8 Great Lakes States, is authorized to conduct a study of the effects of Great Lakes water consumption on economic growth and environmental quality in the Great Lakes region and of control measures that can be implemented to reduce the quantity of water consumed.

(b) Matters Included.—The study authorized by this section shall at a minimum include the following:

(1) a review of the methodologies used to forecast Great Lakes consumptive uses, including an analysis of the sensitivity of key variables affecting such uses;

(2) an analysis of the effect that enforcement of provisions of the Federal Water Pollution Control Act relating to thermal discharges has had on consumption of Great Lakes water;

(3) an analysis of the effect of laws, regulations, and national policy objectives on consumptive uses of Great Lakes water used in manufacturing;

(4) an analysis of the associated environmental impacts and of the economic effects on industry and other interests in the Great Lakes region associated with individual consumptive use control strategies; and

(5) a summary discussion containing recommendations for methods of controlling consumptive uses which methods maximise benefits to the Great Lakes ecosystem and also provide for continued full economic growth for consuming industries as well as other industries which depend on the use of Great Lakes water.

(c) Great Lakes States Defined.—For purposes of this section, the term "Great Lakes States" means Minnesota, Wisconsin, Illinois, Ohio, Michigan, Indiana, Pennsylvania, and New York.

(d) Authorization of Appropriations.—There is authorized to be appropriated for fiscal years beginning after September 30, 1986, $750,000 to carry out this section. Sums appropriated under this section shall remain available until expended.

SEC. 522. SULFIDE CORROSION STUDY.

(a) STUDY.—The Administrator shall conduct a study of the corrosive effects of sulfides in collection and treatment systems, the extent to which the uniform imposition of categorical pretreatment standards will exacerbate such effects, and the range of available options to deal with such effects.

(b) CONSULTATION.—The study required by this section shall be conducted in consultation with the Los Angeles City and County sanitation agencies.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall submit a report on the results of the study, together with recommendations for measures to reduce the corrosion of treatment works, to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,000,000 to carry out this section for fiscal years beginning after September 30, 1986.

SEC. 523. STUDY OF RAINFALL INDUCED INFILTRATION INTO SEWER SYSTEMS.

(a) STUDY.—The Administrator shall study problems associated with rainfall induced infiltration into wastewater treatment sewer systems. As part of such study, the Administrator shall study appropriate methods of regulating rainfall induced infiltration into the sewer system of the East Bay Municipal Utility District, California.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Administrator shall submit to Congress a report on the results of such study, along with recommendations on reasonable methods to reduce such infiltration.

SEC. 524. DAM WATER QUALITY STUDY.

The Administrator, in cooperation with interested States and Federal agencies, shall study and monitor the effects on the quality of navigable waters attributable to the impoundment of water by dams. The results of such study shall be submitted to Congress not later than December 31, 1987.

SEC. 525. STUDY OF POLLUTION IN LAKE PEND OREILLE, IDAHO.

The Administrator shall conduct a comprehensive study of the sources of pollution in Lake Pend Oreille, Idaho, and the Clark Fork River and its tributaries, Idaho, Montana, and Washington, for the purpose of identifying the sources of such pollution. In conducting such study, the Administrator shall consider existing studies, surveys, and test results concerning such pollution. The Administrator shall report to Congress the findings and recommendations concerning the study conducted under this section.

The **SPEAKER** pro tempore. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The **SPEAKER** pro tempore. The question is on passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. **HOWARD**. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 406, nays 8, not voting 18, as follows:

[Roll No. 8]

YEAS—406

Ackerman
Akaka
Alexander
Anderson
Andrews
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Bevill
Biaggi
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lungren
Mack
MacKay
Madigan
Manton
Markey
Martin (NY)

Crockett
Daniel
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzales
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Gregg
Parris
Pashayan
Patterson
Pease
Penny
Pepper
Perkins
Petri
Pickett
Porter
Price (IL)
Price (NC)
Pursell

Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solarz
Solomon
Spratt
St Germain
Staggers
Stallings
Stangeland

Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKinney
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—8

Bartlett
Burton (IN)
Cheney
Crane
Dannemeyer
Lukens, Donald
Marlenee
Stump

NOT VOTING—18

Annunzio
Berman
Boner (TN)
Burton (CA)
Clay
Gephardt
Green
Kasich
Kemp
Lent
Martin (IL)
Ortiz
Pickle
Quillen
Rose
Slattery
Snowe
Spence

☐ 1440

Mr. BURTON of Indiana changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

HOUSE DEBATE ON H. CON. RES. 24

January 20, 1987
(Congressional Record, vol. 133, daily ed., H259-H264)

MAKING A CORRECTION RELATING TO PHOSPHATE FERTILIZER EFFLUENT LIMITATION, IN THE ENROLLMENT OF H.R. 1, CLEAN WATER ACT AMENDMENTS

Mr. HOWARD. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 24) to make a correction, relating to phosphate fertilizer effluent limitation, in the enrollment of the bill H.R. 1.

The Clerk read as follows:

H. Con. Res. 24

Resolved by the House of Representatives (the Senate concurring), That, in the enrollment of the bill (H.R. 1) to amend the Federal Water Pollution Control Act to provide for the renewal of the quality of the Nation's waters, and for other purposes, the Clerk of the House of Representatives shall make the following correction in section 306:

Strike out subsection (c) and insert in lieu thereof the following new subsection:

(c) Phosphate Fertilizer Effluent Limitation.—

(1) Issuance of Permit.—As soon as possible after the date of enactment of this Act, but not later than 180 days after such date of enactment, the Administrator shall issue permits under section 402(a)(1)(B) of the Federal Water Pollution Control Act with respect to facilities—

(A) which were under construction on or before April 8, 1974, and

(B) for which the Administrator is proposing to revise the applicability of the effluent limitation established under section 301(b) of such Act for phosphate subcategory of the fertilizer manufacturing point source category to exclude such facilities.

(2) Limitation on statutory construction.—Nothing in this section shall be construed—

(A) to require the Administrator to permit the discharge of gypsum or gypsum waste into the navigable waters,

(B) to affect the procedures and standards applicable to the Administrator in issuing permits under section 402(a)(1)(B) of the Federal Water Pollution Control Act, and

(C) to affect the authority of any State to deny or condition certification under section 401 of such Act with respect to the issuance of permits under section 402(a)(1)(B) of such Act.

The SPEAKER. Is a second demanded?

Mr. HAMMERSCHMIDT. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from New Jersey [Mr. Howard] will be recognized for 20 minutes, and the gentleman from Arkansas [Mr. Hammerschmidt] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. Howard].

(Mr. HOWARD asked and was given permission to revise and extend his remarks.)

Mr. HOWARD. Mr. Speaker, when the week before last the House considered the Clean Water Act, there was a discussion concerning language in that bill as it relates to the State of Louisiana; and all members of the State delegation were very concerned about that.

We stated at that time that we would look over that provision, and should a resolution be necessary to be passed by the House, we would bring it up on the day that we returned; and the Committee on Public Works and Transportation is now meeting that commitment.

This bill is under suspension. We understand the Clean Water Act will be considered on tomorrow by the other body, and it is believed that, should the House pass this legislation by a voice vote, without the necessity of a recorded vote on tomorrow, then on tomorrow the other body will be able to pass this, along with the Clean Water Act so that both pieces of legislation would be able to go down to the White House at the same time.

Mr. Speaker, House Concurrent Resolution 24, which I am bringing before the House today, relates to a provision of H.R. 1, the Water Quality Act of 1987, which was passed by this body on January 8.

The provision of H.R. 1, section 306(c), relates specifically to one part of Louisiana and has no general application. It is a provision that was included in the conference report that was approved unanimously by this body and the other body in October.

Since that time, however, questions were raised about the effect of section 306(c) on water quality in southwestern Louisiana. The entire Louisiana delegation indicated to the Committee on Public Works and Transportation that it was their reading that section 306(c) would require the Environmental Protection Agency to grant permits under the Clean Water Act that would allow the discharge of gypsum or gypsum waste into the Mississippi River.

There are disputes about that interpretation of the provision in that manner. However, it was never the intention of the committee to allow pollution of the navigable waters in that manner especially in view of the objections of the Louisiana delegation.

In this case, we were faced with a difficult parliamentary problem. It was the strong and overwhelming opinion of the leadership of this body, with which I agreed, to move H.R. 1 without changes from the conference report. We had made commitments with the leadership of the other body on that basis. As a result, the understandable concerns of the Louisiana delegation, which would have been a simple matter to resolve under normal circumstances, became a more difficult problem.

My colleague from New Jersey, Mr. Roe, worked long and hard with the Louisiana delegation in an effort to correct the problem without amending H.R. 1. The result was the concurrent resolution that is before us today directing the Clerk of the House to make changes in section 306(c). These changes have been accepted by all of the interested parties.

I will allow our subcommittee chairman to describe the Louisiana situation in detail. The effect of the change mandated by this resolution is to require EPA to issue the necessary Clean Water Act permits within 180 days but it specifically states that the approval of gypsum discharge is not required, only the issuing of the permit for each of the four fertilizer plants in question. It also specifically states that the State of Louisiana maintains its authority to set more stringent standards.

Mr. Speaker, House Concurrent Resolution 24 should be approved by this body today and sent to the other body. It eliminates the justifiable concerns raised by our colleagues from Louisiana, while enabling the Congress to fulfill its pledge to send the President the same Clean Water Act reauthorization that was approved unanimously last year and by a 406-8 margin in this body just 2 weeks ago.

Our major concern must be the reauthorization of the Clean Water Act and distribution of sewage treatment plant construction funds to those States that are waiting for us to act. House Concurrent Resolution 24 moves us toward that goal and I urge its immediate passage.

So we are hoping that we will be able to pass this noncontroversial concurrent resolution by a voice vote under suspension today, and to speak to the particulars of this, I yield such time as he may consume to the former chairman of the Subcommittee on Water Resources of our Committee on Public Works and Transportation, the gentleman from New Jersey [Mr. Roe].

(Mr. ROE asked and was given permission to revise and extend his remarks.)

□ 1220

Mr. ROE. Mr. Speaker, I am pleased to speak in support of House Concurrent Resolution 24, relating to the enrollment of the bill H.R. 1.

H.R. 1 passed this House by a vote of 406-8 on January 8, 1987. At that time concerns were raised by the Louisiana delegation about section 306(c) and the possibility that gypsum or gypsum waste would be discharged into the Mississippi River. That section required the Administrator of EPA to issue best professional judgment discharge permits to four fertilizer plants in Louisiana.

The concurrent resolution requires the Clerk of the House of Representatives to change section 306(c). The changes were developed in the closest cooperation and involvement of the Louisiana delegation. These changes clarify EPA's responsibility.

The concurrent resolution strikes existing section 306(c). The replacement language requires the Administrator of EPA to issue best professional judgment permits under the authority of section 402(a)(1)(B) of the Federal Water Pollution Control Act as soon as possible, but not later than 180 days after enactment. The language states that nothing is to be construed to require the Administrator to permit the discharge of gypsum or gypsum waste into the navigable waters. Further, nothing is to affect the procedures and standards applicable to the Administrator in issuing the best professional judgment permits under section 402(a)(1)(B) of the act. Finally, nothing in the section may be construed to affect the authority of any State to deny or condition certification under section 401 of the act with respect to the issuance of best professional judgment permits under section 402(a)(1)(B).

Mr. Speaker, these four Louisiana phosphate fertilizer plants—with a direct employment of 1,500 to 1,700 people— state that they are unable to comply with effluent limitations published by EPA. The limitations control the discharge of gypsum, a byproduct, cooling water and storm water runoff. Pollutants in the gypsum include radio-activity and metals. The plants are: Agrico Chemical (Donaldsonville), Arcadian (Geismar), Beker (Taft) and Freeport Chemical (Uncle Sam). Most plants comply with the limitations by disposing of gypsum on land. The Louisiana plants claim they are unable to comply with the limitations because of: First, a lack of land on which to dispose of the gypsum; and second, the soil characteristics and rainfall in Louisiana do not allow for the gypsum to be stacked for disposal as in other areas of the United States.

In 1974, EPA promulgated effluent guidelines for fertilizer manufacturing plants. These prescribe the minimum applicable technology-based limits for the industry. Limits for individual plants may be more stringent to protect water quality. The regulation provides for no discharge of process wastewater pollutants, except for discharge after treatment of storm water runoff in certain situations. Other similar plants comply with the regulation by disposing of the gypsum on land and recycling wastewater, including rainfall that comes into contact with the gypsum except for the storm water exception.

All four plants have expired NPDES permits which are continued under the Administrative Procedure Act. Permits for Agrico and Arcadian contain limitations based on the current regulation. The permit for Freeport contains limitations based on the regulation, except for alternative limitations based on a 1981 fundamentally different factors [FDF] variance for once-through cooling water. The guidelines-based limitations in the permit for Beker have been stayed due to an administrative appeal of the permit which has been pending in EPA for several years.

In 1982-84, three of the facilities submitted requests for FDF variances from the limitations to allow at least a partial discharge of process wastewater and gypsum. The FDF's are being held in abeyance at this time because of the ongoing rulemaking and permitting activities.

In 1983, industry requested that EPA review the regulations due to the lack of land and the climatic and soil conditions which exist in Louisiana. In 1984, EPA proposed to suspend the application of the regulations to these four plants because EPA believed the technology basis for the regulation was no longer applicable for the plants. In 1986, EPA provided additional information and held public hearings in Baton Rouge and New Orleans. EPA has not finalized this rulemaking activity, even though the original proposal is almost 3 years old.

In 1986, EPA proposed draft NPDES permits for these four plants which would allow for discharge of process wastewater, including gypsum. The permits have not been finalized by EPA. The Louisiana Department of Environmental Quality [DEP] has the right, under their certification authority contained in section 401 of the Clean Water Act, to require more stringent limitations necessary to comply with various provisions of the act. Louisiana DEP has established a task force to advise them on issues relating to these permits. EPA has established a region VI and headquarters task force, consisting of staff from the offices of water regulations and standards, water enforcement and permits, radiations programs and general counsel to evaluate various issues raised on the draft permits and develop final requirements.

As modified, section 306(c) requires EPA to issue new NPDES permits within 180 days. The amendment does not require EPA to allow discharge of process wastewater, including gypsum. The amendment does allow EPA to address each plant individually and to develop limitations for the different types of wastewater generated. The amendment does not require Louisiana to concur on the permits or certify, under the Clean Water Act, the permit limitations that EPA proposed in 1986. Louisiana still has the right under the Clean Water Act to require more stringent limitations. The amendment does not change the provision of the act limiting permit terms to no more than 5 years.

The effect of the amendment is simply to require EPA to make a decision as to these facilities under the authority of section 402(a)(1)(B) of the act. EPA's authority and responsibility under section 402(a)(1)(B) is in no way altered. The Agency is to consider all relevant factors and make a determination consistent with the goals of the Federal Water Pollution Control Act to ensure protection of public health and the environment. Section 306(c) does not sanction any past actions of EPA nor mandate any particular results such as the discharge of gypsum.

Moreover, the Public Works Committee stands ready to monitor EPA's implementation of this provision and public hearings on the matter, as necessary to ensure the protection of public health and the environment.

Mr. Speaker, this concurrent resolution clarifies the language of 306(c) of H.R. 1. Rather EPA is to bring this matter to a conclusion within 180 days. The concurrent resolution is supported by the Louisiana delegation, and deserves the strong support of this House.

Mr. NOWAK. Mr. Speaker, I am pleased to rise in support of House Concurrent Resolution 24, relating to the enrollment of the bill H.R. 1.

On this past January 8, 1987, H.R. 1 was passed by this House by a vote of 406 to 8. The Louisiana delegation raised a question about section 306(c) of H.R. 1. The concern was that the Administrator of EPA would be required to issue permits which would allow four Louisiana fertilizer plants to discharge gypsum or gypsum waste into the Mississippi River, although the language of section 306(c) does not require the Administrator to issue a permit for the discharge of gypsum or gypsum waste. The concurrent resolution would modify section 306(c) to assuage the concerns raised by the Louisiana delegation.

The concurrent resolution requires the Clerk of the House of Representatives to change section 306(c). The changes were developed in the closest cooperation and involvement of the Louisiana delegation. These changes clarify EPA's responsibility in response to the concern which was raised.

The concurrent resolution strikes existing section 306(c). The replacement language requires the Administrator of EPA to issue best professional judgment permits under the authority of section 402(a)(1)(B) of the Federal Water Pollution Control Act as soon as possible, but not later than 180 days after enactment. The language states that nothing is to be construed to require the Administrator to permit the discharge of gypsum or gypsum waste into the navigable waters. Further, nothing is to affect the procedures and standards applicable to the Administrator in issuing the best professional judgment permits under section 402(a)(1)(B) of the act. Finally, nothing in the section may be construed to affect the authority of any State to deny or condition certification under section 401 of the act with respect to the issuance of best professional judgment permits under section 402(a)(1)(B).

The four affected Louisiana phosphate fertilizer plants state that they are unable to comply with applicable effluent limitations published by EPA to control the discharge of gypsum, cooling water, and stormwater runoff. The Louisiana plants claim they are unable to comply with the limitations because of: First, a lack of land on which to dispose of the gypsum; and second, the soil characteristics and rainfall in Louisiana do not allow for the gypsum to be stacked for disposal as in other areas of the United States.

In 1974, EPA promulgated effluent guidelines for fertilizer manufacturing plants. These prescribe the minimum applicable technology-based limits for the industry. Limits for individual plants may be more stringent to protect water quality. The regulation provides for no discharge of process wastewater pollutants, except for discharge after treatment of storm water runoff in certain situations. Other similar plants comply with the regulation by disposing of the gypsum on land and recycling wastewater, including rainfall that comes into contact with the gypsum except for the storm water exception.

As modified, section 306(c) requires EPA to issue new NPDES permits within 180 days. The amendment does not require EPA to allow discharge of process wastewater, including gypsum. The amendment allows EPA to address each plant individually and to develop limitations for the different types of wastewater generated. The amendment does not affect the rights of Louisiana to concur on the permits or certify, under the Clean Water Act, the permit limitations. Louisiana retains the right under the Clean Water Act to require more stringent limitations and the amendment does not change the provision of the act limiting permit terms to no more than 5 years.

I would also like to state that the Public Works Committee stands ready to closely monitor EPA's implementation of this provision. If necessary, public hearings may be held to assure proper implementation and protection of public health.

Mr. Speaker, this concurrent resolution has the support of the Louisiana delegation, and affects only four plants in Louisiana. I urge my colleagues to support it unanimously.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 24 which will slightly modify language in H.R. 1, the Water Qualtiy Act of 1987, during the enrollment of that bill. As you know, Mr. Speaker, H.R. 1 is the same bill that passed the House and Senate last year unanimously but was pocket vetoed by President Reagan on November 6. The bill was reintroduced as the first bill of the 100th Congress in both Chambers and passed in the House on January 8 by an overwhelming margin of 406 to 8. The Senate is expected to conclude floor consideration of the bill tomorrow and I expect that they will also pass the measure by an overwhelming margin. The language to be modified is in section 306(c) of the bill and relates exclusively to four fertilizer plants in Louisiana.

In order to adequately explain the specific change that would be made if House Concurrent Resolution 24 is adopted, it is necessary to take a moment to describe the factual circumstances and legislative history surrounding section 306(c) of H.R. 1.

The four plants in question have been engaged in the manufacture of phosphate fertilizer for over 10 years. The effluent limitations applicable to these plants were promulgated in 1974 and were developed by the Environmental Protection Agency based on industry practice in Florida, where the bulk of phosphate fertilizer plants are located. The limitations provide for no discharge of process wastewater pollutants, except for discharge after treatments of stormwater discharge in certain situations. Other similar plants comply with the limitations by disposing of gypsum, a manufacturing process byproduct, on land and collecting and reusing process water and stormwater. Because of differences in climatic and soil conditions between Florida and Louisiana, however, these limitations did not readily fit the four plants in Louisiana. Consequently, three of the plants applied for fundamentally different factor [FDF] variances during the 1982 through 1984 timeframe.

While these applications were pending, EPA proposed to suspend the application of the limitations with respect to these plants and to develop new effluent limitations applicable to a new subcategory of phosphate fertilizer plants located in Louisiana. Pending subcategorization and the promulgation of new limitations, the plants were to be issued permits based on best professional judgment [BPJ] pursuant to section 402(a)(1). In 1986, EPA proposed draft BPJ permits for the plants which would allow for the discharge of process wastewater, including gypsum. This action caused serious concern among those who were located downstream of the plants. These concerns relate to the potential threat to drinking water supplies and fishery resources posed by the discharge of gypsum reportedly containing significant quantities of harmful contaminants.

It was with this factual background that the issue arose in conference. It arose in the context of a serious policy difference between the House and Senate concerning the effect of new requirements on pending requests for FDF variances. The bill passed by the House—H.R. 8—would have grandfathered all pending FDF applications; that is, it would have allowed all pending FDF variance applications to be considered under the rules in effect prior to the effective date of the bill's amendments. In contrast, the Senate passed bill—S. 1128—would have required all pending FDF applications to be considered under the new requirements in the bill. Applications of the Senate approach across the board, however, would have arguably made it impossible for the four plants in question to obtain FDF waivers, notwithstanding the fact that their manufacturing situation was fundamentally different from the situation of plants used in developing the applicable effluent limitation.

In an effort to resolve this dilemma, the proposed Senate language would follow the basic Senate approach of not grandfathering pending FDF applications but would specifically address the problem such an approach would pose for the four Louisiana fertilizer plants. Under the Senate language, which was ultimately included in the bill, effluent limitations would be legislatively waived with respect to these four plants. In addition, EPA would be required to issue BPJ permits within 180 days of enactment.

In agreeing to this language, the conferees did not intend to prejudge the pending permitting action for these plants. Nor did we intend to prejudice the rights of any party which would be adversely affected by issuance of any permit. We simply intended to require EPA to review the situation and issue permits for these plants, based on its best professional judgment in accordance with all of the requirements of the act, and to do so as expeditiously as possible. While I do not believe that the language contained in the bill as passed in any way requires a particular permitting result or in any way limits anyone's right to challenge whatever ultimately is that result, I have agreed to support the modifications proposed to help emphasize that fact.

Specifically, House Concurrent Resolution 24 would delete language in the bill legislatively waiving the application of effluent limitations to the four plants in question. The effect of this change is to require EPA to continue the process to waive the application of these limitations administratively. In addition, language would be added clarifying what was always our intent, that nothing contained in the bill should be construed to require EPA to permit the discharge of gypsum, or to affect the procedural or substantive requirements applicable to EPA or the rights of the State to deny or condition its water quality certification for any permit which would be issued.

The changes which are proposed are supported by all parties to this controversy, including the entire Louisiana delegation in the House and Senate. As I have indicated, the changes help to clarify and effectuate the intent of the conferees in drafting language specific to these plants. Accordingly, I support passage of House Concurrent Resolution 24 to allow modification of the enrollment of H.R. 1 to reflect the approach agreed upon by all parties.

Mr. Speaker, I yield such time as he may consume to our ranking minority member, the gentleman from Minnesota [Mr. STANGELAND].

(Mr. STANGELAND asked and was given permission to revise and extend his remarks.)

Mr. STANGELAND. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of House Concurrent Resolution 24, which makes a correction relating to phosphate fertilizer effluent limitations in the enrollment of H.R. 1.

Last week the House passed H.R. 1, the Water Quality Act of 1987, by an overwhelming margin of 406 to 8. H.R. 1, like its counterpart, S. 1, is identical to the conference report on S. 1128, which passed the House and Senate unanimously—by combined votes of 504 to 0—3 months ago but was pocket vetoed by the President on November 6. This legislation was then—and continues to be now—one of the most sensible yet environmentally sensitive bills in recent years. For this reason, H.R. 1 received strong support from virtually every citizen, governmental, and interest group.

Unfortunately, H.R. 1 contains one provision which has generated concern among the entire Louisiana delegation. Section 306(c) of the bill requires

EPA to withdraw existing effluent limitations that applied to four fertilizer plants in Louisiana and that received strong criticism from various environmental groups. The provision further requires EPA to issue best professional judgment [BPJ] permits to the facilities as soon as possible after enactment of H.R. 1. These interim permits would terminate upon the issuance of permits with specific, new effluent guidelines applicable to the proposed new subcategory discharges. The provision would not mandate the dumping of gypsum into the Mississippi River. Nothing in the legislation would preclude EPA from prohibiting or severely restricting the discharge of gypsum when it issued the interim BPJ permits.

Section 306(c), hammered out among conferees in the final days of the 99th Congress, allowed us to complete the remaining issues on this monumental legislation amending the Clean Water Program. More importantly, the resulting provision seemed, at the time, to be a reasonable and environmentally protective compromise. Essentially, the Senate conferees offered the language in an effort to blend differing approaches of the House and Senate bills without weakening environmental protection.

In recent weeks, however, the entire Louisiana delegation has voiced concerns over section 306(c) of the bill. Some claim the provision mandated the dumping of gypsum into the river, prejudges the pending permitting actions for the plants, and unfairly prejudices the rights of those persons downstream of the plants who might be harmed by the discharges.

This most emphatically was not our intent when we agreed to the compromise. We simply intended EPA to thoroughly review the complicated regulatory situation for each of the four plants and, in the meantime, to issue permits based on the Agency's best professional judgment. I also believe H.R. 1's current language would not necessarily have the legal or practical effect claimed by those who oppose the provision.

Nevertheless, I am firmly committed to giving all due deference to the Louisiana delegation on this issue. I believe those who are most directly impacted by legislation should be able to address their concerns. House Concurrent Resolution 24 provides them an opportunity to make changes and clarifications to one provision of an otherwise excellent bill. For this reason, I support House Concurrent Resolution 24 even though I am not totally convinced of its need.

The legislation before us today deletes paragraph (1) of section 306(c), which prohibited the application of existing effluent limitations—for the phosphate subcategory—to the four Louisiana fertilizer facilities. House Concurrent Resolution 24 retains the BPJ permit requirement. The amendment to section 306(c) also clarifies Congress' intent by specifying that nothing in section (306(c): First, requires EPA to permit the discharge of gypsum waste into navigable waters; second, affects EPA's procedures and standards for issuing BPJ permits; or third, affects the authority of Louisiana to deny or condition section 401 certifications of the BPJ permits.

House Concurrent Resolution 24 has the support of the entire Louisiana delegation and the leadership of the House Public Works Committee. The provision clarifies our original intent and applies solely to four specific facilities in Louisiana. The Senate has also expressed support for the provision and, I understand, will consider the resolution tomorrow. Therefore, Mr. Speaker, I urge each Member to support House Concurrent Resolution 24 so that we can complete this unfinished business of the 99th Congress as soon as possible. With these finishing touches to H.R. 1, we will again be able to send the President a bill deserving Congress' unanimous support, the President's signature, and the public's overwhelming approval.

Mrs. BOGGS. Mr. Speaker, I rise in support of House Concurrent Resolution 24, and urge the consideration of the Members of the House of Representatives for this legislative vehicle which is designed to resolve the very unique and special problem faced by the entire Louisiana delegation as a result of section 306(c) of the Clean Water Act.

As dean of the Louisiana delegation I wish to affirm the united and strong support of our Members for the Clean Water Act and its manifest benefits to the entire Nation. Section 306(c), however, is Louisiana specific—affecting only four Louisiana phosphate plants, and impacting only the 1.5 million residents of our State below the point of discharge of these plants who draw their drinking water sources from the Mississippi River.

The purpose of this legislation is to clarify the intent of this section, and codify the limitations on interpretation as it appears in the section-by-section analysis of this bill. This approach is absolutely necessary so that all those involved in the so-called gypsum dumping issue will have a clear understanding of the new act, and its impact upon the health and well-being of our citizens, and the Louisiana environs.

We, in Louisiana, will be most grateful for your special consideration and support by adopting this measure—tailored particularly to our problem.

In closing, I would like to express the appreciation of the entire delegation for the remarkable support and assistance rendered by our esteemed colleague and bill manager, the honorable ROBERT ROE, and his capable staff—whose efforts went far and beyond the call of duty to resolve this issue for the State of Louisiana—we owe them all a deep debt of thanks.

Mr. HOWARD. Mr. Speaker, I yield 5 minutes to the gentleman from Louisiana [Mr. Tauzin].

Mr. TAUZIN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I thank both the chairman of the subcommittee, Mr. Roe, and the chairman of the full committee, the gentleman from New Jersey, Mr. Howard, for the excellent work in reference to this concurrent resolution which will indeed satisfy the Louisiana concerns in the amendment process to H.R. 1.

The concurrent resolution in effect acts as a collateral rewriting of this section of the amendment to H.R. 1 dealing with the issues of gypsum waste being dumped in the river.

Mr. Speaker, the dean of our delegation, Mrs. Lindy Boggs, is not here today. The gentlewoman is hosting in New Orleans, LA, the queen city of the South, to also secure from the site selection committee representing the Democratic Party of this great Nation in its efforts to select its place for its convention next year where the next President will be nominated and it is our hope that Louisiana and New Orleans will not only enjoy the great reception for the Republican Party, but also for our own great Democratic Party.

Mr. Speaker and Members of the House, just last week my office revealed to the citizens of Louisiana, particularly to New Orleans, the presence and existence of two patented processes by which phosphogypsum, which is the principal gypsum waste product from the fertilizer plants in question in this resolution, those patented processes by which that phosphogypsum could be turned into useful aggregate material for constructive purposes in our State and elsewhere. We also demonstrated to the public in New Orleans that the fluorogypsum, the other variety of gypsum waste, is presently being marketed in Louisiana for construction work and is presently being used along with phosphogypsum, unprocessed, in the State of Texas for construction work.

In effect we demonstrated that gypsum waste material in one process when combined with waste material from the manufacture of aluminum, bauxite waste, red clay, can produce a useful aggregate that is environmentally safe and actually cheaper than clam shell and limestone for road construction and for other concrete and building purposes in Louisiana.

In short, there is an alternative to dumping gypsum waste into our rivers and streams in America. The demonstration of these two patented processes, of course, will not solve the immediate problem in Louisiana. It will not solve the immediate problem of several plants, one of which is already dumping gypsum in the river and other of which has only 6 months storage capacity. But it does offer for Louisiana a long-term solution to this awful problem. It says for Louisiana and other States who have accumulated the processing wastes such as gypsum waste and red clay waste from bauxite that there is good science available for combining these wastes into useful products that can avoid the unhealthy effects of dumping those materials into the Mississippi River or other streams.

In short, Mr. Speaker, the Mississippi River should not become the sewerline for the Nation or for our State. Finding these alternative ways of using these materials is indeed in our State's best interest and ultimately in our Nation's best interest.

In that regard let me congratulate our State for the selection of a new secretary of our department of environmental quality, Mrs. Martha Madden, who is the recommendee of the Sierra Club in Louisiana.

We support Mrs. Martha Madden in her efforts to protect our environment and we believe that Martha Madden will safely guard this permit process. We congratulate the chairman of our subcommittee and the full committee of this resolution as it secures for Louisiana and our department of environment quality that veto and modification authority to protect our safe water against any effects of gypsum dumping that may indeed be found to be hazardous to the health of our State.

Mr. Speaker, with that I yield back the balance of my time.

GENERAL LEAVE

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in respect to the concurrent resolution presently under consideration.

The SPEAKER pro tempore (Mr. Murtha). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. HOWARD. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana [Mr. Roemer].

(Mr. ROEMER asked and was given permission to revise and extend his remarks.)

Mr. ROEMER. Mr. Speaker, I want to thank, along with my colleague, Mr. Tauzin, and I am sure my colleagues who follow, Mr. Livingston particularly, the leadership of the House and the committees involved in working on this problem. I would like to thank Jim Howard specifically and Bob Roe.

Chairman Roe has worked with the Louisiana delegation for some time in trying to do the right thing, trying to draw the line legally between our desire for clean water and our need to protect the interests of the citizens of Louisiana, both those who have jobs involved and those who drink our water.

The problem with the clean water bill was not the heart of the bill. It was good. We supported it for that reason. But section 306 in that bill did undercut the rights of the State and concerns of the citizens over clean water vis-a-vis the dumping of gypsum in the Mississippi River.

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This solution found in the concurrent resolution, drafted in large part by the gentleman from New Jersey [Mr. ROE], with some help from the Louisiana delegation, is an excellent solution.

It does not mean that the problem will go away; it just means that the gypsum cannot be dumped arbitrarily and without some findings as to the health results. I think it is the higher ground; I think it is the clean ground, and if we put these two items together, H.R. 1, the clean water bill, and the concurrent resolution (H. Con. Res. 24), I think we have a chance to attest to the people of Louisiana that we have done the right thing.

So, in closing, I would like to thank my colleagues in the Louisiana delegation who have worked most diligently on this, including the gentlewoman from Louisiana [Mrs. BOGGS] and the gentleman from Louisiana [Mr. LIVINGSTON] and others. I would also like to thank the leadership of the Committee on Public Works and Transportation and the leadership of the House of Representatives.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 5 minutes to the able gentlemen from Louisiana [Mr. LIVINGSTON], a former member of our Committee on Public Works and Transportation.

(Mr. LIVINGSTON asked and was given permission to revise and extend his remarks.)

Mr. LIVINGSTON. Mr. Speaker, I want to join with my colleagues, the gentlemen from Louisiana, Mr. TAUZIN and Mr. ROEMER, and with the dean of our delegation, the gentlewoman from Louisiana, LINDY BOGGS, in thanking the leadership on both sides, the gentlemen from New Jersey, Mr. HOWARD and Mr. ROE, on the Democratic side, the gentleman from Arkansas, Mr. HAMMERSCHMIDT, and the gentleman from Minnesota, Mr. STANGELAND, on the Republican side for their working with the Louisiana delegation to cure this problem.

In fact, section 306 was defective when it was first concocted. There is still some degree of mystery about how it was concocted, and I am still deeply resentful that there was some representation made by non-Members of the House to Members of the other body to the effect that the Louisiana delegation was all on board on this provision as it is currently written. That simply was not the case, but we have to come together here in the House today in a somewhat convoluted procedure to remedy what was done previously.

I just want to reemphasize how appreciative I am of the leadership for their working together with the Louisiana delegation in rectifying this past mistake.

In fact, the provision was vague as it was originally written. It appeared as if it might have mandated the dumping of harmful materials in the river. The provision that we are about today, House Concurrent Resolution 24, clearly sets forth the fact that the materials, if, in fact, they are harmful, will not go into the river without ample opportunity granted to opponents to object.

This provision allows the experts to weigh in on this most serious problem and to make their own determination about its impact. It retains to all parties the option of taking their case through the natural processes, as if they might have done before this problem arose.

We have passed H.R. 1. The other body will soon pass a like edition. House Concurrent Resolution 24, if passed here and in the Senate, will amend section 306 to the agreement of industry, environmentalists, the sewage and water board, and the Louisiana delegation. Again, it is in the spirit of compromise and cooperation with all parties that we are able to come here today to make this adjustment and ultimately send on H.R. 1, as it should have been sent initially, to the President for his signature.

I want to again thank all the leaders for working together with us and hope that this provision will be expeditiously passed, not only in the House, but in the other body as well, and that it will be added to the major bill—H.R. 1—as it currently stands.

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HOWARD. Mr. Speaker, before I yield back the balance of my time, let me just state that should this legislation be passed by a voice vote this afternoon, the other body will be able to dispose of it on tomorrow.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the motion offered by the gentleman from New Jersey [Mr. HOWARD] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 24.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.